



MULTNOMAH COUNTY OREGON

OFFICE OF THE BOARD CLERK
SUITE 1510, PORTLAND BUILDING
1120 SW FIFTH AVENUE
PORTLAND, OREGON 97204
CLERK'S OFFICE • 248-3277 • 248-5222
FAX • (503) 248-5262

BOARD OF COUNTY COMMISSIONERS		
BEVERLY STEIN	CHAIR	•248-3308
DAN SALTZMAN	DISTRICT 1	• 248-5220
GARY HANSEN	DISTRICT 2	•248-5219
TANYA COLLIER	DISTRICT 3	•248-5217
SHARRON KELLEY	DISTRICT 4	•248-5213

AGENDA

MEETINGS OF THE MULTNOMAH COUNTY BOARD OF COMMISSIONERS FOR THE WEEK OF

AUGUST 12, 1996 - AUGUST 16, 1996

Tuesday, August 13, 1996 - 9:30 AM - Land Use PlanningPage 2

Tuesday, August 13, 1996 - 10:30 AM - Board BriefingPage 2

Tuesday, August 13, 1996 - 1:00 PM - Cities/County Meeting..Page 2

Thursday, August 15, 1996 - 9:30 AM - Regular Meeting.....Page 3

*Thursday Meetings of the Multnomah County Board of Commissioners are *cablecast* live and taped and can be seen by Cable subscribers in Multnomah County at the following times:*

Thursday, 9:30 AM, (LIVE) Channel 30

Friday, 10:00 PM, Channel 30

Sunday, 1:00 PM, Channel 30

Produced through Multnomah Community Television

INDIVIDUALS WITH DISABILITIES MAY CALL THE OFFICE OF THE BOARD CLERK AT 248-3277 OR 248-5222, OR MULTNOMAH COUNTY TDD PHONE 248-5040, FOR INFORMATION ON AVAILABLE SERVICES AND ACCESSIBILITY.

AN EQUAL OPPORTUNITY EMPLOYER

*Tuesday, August 13, 1996 - 9:30 AM
Multnomah County Courthouse, Room 602
1021 SW Fourth, Portland*

LAND USE PLANNING MEETING

- P-1 CU 1-96, HV 1-96, SEC 1-96 DE NOVO HEARING Regarding Appeal of Hearings Officer Decision DENYING Request for a Conditional Use Permit for a Single Family Residence Not Related to Forest Management, Lot Size and Setback Variances, and a Significant Environmental Concern Permit in the Commercial Forest Use CFU-80 and SEC-h Wildlife Habitat Zones Located at 3130 NW FOREST LANE, PORTLAND. Testimony Limited to 15 Minutes Per Side.*
-

*Tuesday, August 13, 1996 - 10:30 AM
Multnomah County Courthouse, Room 602
1021 SW Fourth, Portland*

BOARD BRIEFING

- B-1 Discussion and Request for Policy Direction Regarding County Position on Proposed Property Tax Exemption Program for Transit Oriented Mixed Use and Residential Development. Presented by Rey España and Mike Saba. 1 HOUR REQUESTED.*
-

*Tuesday, August 13, 1996 - 1:00 - 4:00 PM
Office of the Mayor, Fifth Floor - International Conference Room
1400 SW Fifth Avenue, Portland*

MULTNOMAH CITIES/COUNTY JOINT MEETING

- B-2 Elected Officials from the Cities of Portland, Fairview, Gresham, Troutdale and Wood Village, and the Multnomah County Board of Commissioners Will Meet to Discuss Topics Including Individual Critical Issues; 1996 Annual Benchmark Report; Potential Local Impacts of Ballot Measures; Emerging 1997 State Legislative Issues; Political Revisions to Resolution A Policy and Other Issues.*

Thursday, August 15, 1996 - 9:30 AM
Multnomah County Courthouse, Room 602
1021 SW Fourth, Portland

REGULAR MEETING

CONSENT CALENDAR

NON-DEPARTMENTAL

- C-1 *Renewal of Intergovernmental Agreement 700025 with the State of Oregon Services to Children and Families, Providing Child Abuse Multidisciplinary Intervention (CAMI) Funding for 1 FTE Protective Services Worker Assigned to Child Abuse Investigations*

DEPARTMENT OF COMMUNITY AND FAMILY SERVICES

- C-2 *Intergovernmental Agreement 105366 with the City of Portland, Clarifying Roles and Responsibilities for the Program Operations, Management, and Facilities Operations of the Singles Housing Assessment Center*

REGULAR AGENDA

PUBLIC COMMENT

- R-1 *Opportunity for Public Comment on Non-Agenda Matters. Testimony Limited to Three Minutes Per Person.*

NON-DEPARTMENTAL

- R-2 *Board Decision and Consideration of an ORDER Regarding the Appeal of Dianna Roberts from the Hearings Officer Decision on an Adult Care Home License. **OPTION 1** Schedule a Hearing to Accept Evidence or Argument on this Appeal; OR **OPTION 2** Decide this Appeal on the Record that has Already Been Created. MCC Section 8.90.090 (J) and Section 890-90-450 of the Administrative Rules for Licensure of Adult Care Homes Give the Board Discretion to Follow Either Course.*

DEPARTMENT OF HEALTH

- R-3 *NOTICE OF INTENT to Respond to a Program Announcement from the Centers for Disease Control and Prevention to Fund a Cooperative*

*Agreement for the Development and Evaluation of HIV Prevention
Programs for HIV Positive Men*

DEPARTMENT OF SUPPORT SERVICES

*R-4 RESOLUTION Repealing Resolutions 90-57 and 93-338 and Directing
the Proceeds from the Sale of Unrestricted County Property to the
Capital Improvement Fund and the Capital Acquisition Fund*

SHARRON KELLEY
Multnomah County Commissioner
District 4



Portland Building
1120 S.W. Fifth Avenue, Suite 1500
Portland, Oregon 97204
(503) 248-5213
E-Mail: sharron.e.KELLEY@co.multnomah.or.us

MEMORANDUM

TO: Clerk of the Board
Board of County Commissioners

FROM: Andrew Mooney, Commissioner Kelley's Office

RE: Time off for Commissioner Kelley

DATE: August 1, 1996

This memorandum is to inform you that Commissioner Kelley will be out starting August 14th, for approximately 1-2 weeks.

SEK/atm

BOARD OF
COUNTY COMMISSIONERS
96 AUG - 1 PM 2:42
MULTNOMAH COUNTY
OREGON

GARY HANSEN
Multnomah County Commissioner
District 2



1120 S.W. Fifth Avenue, Suite 1500
Portland, Oregon 97204
(503) 248-5219

MEMORANDUM

TO: Office of the Board Clerk
Chair Beverly Stein
Commissioner Tanya Collier
Commissioner Sharron Kelley
Commissioner Dan Saltzman

FROM: Sarah Hoffman, Commissioner Hansen's Office

RE: Absence from August 15 and August 22 Board Meetings

DATE: August 7, 1996

Commissioner Hansen will be attending an AOC meeting with the Governor in Salem and an event for the Bradley-Angle House, (a shelter for survivors of domestic violence) during the above Board meetings.

BOARD OF
COUNTY COMMISSIONERS
96 AUG - 7 PM 12:20
MULTNOMAH COUNTY
OREGON

MEETING DATE: AUG 15 1996

AGENDA NO: C-1

AGENDA PLACEMENT FORM

SUBJECT: IGA between the State of Oregon Services to Children and Families and the District Attorney's Office for the CAMI Program

BOARD BRIEFING Date Requested: _____

Amount of Time Needed: _____

REGULAR MEETING: Date Requested: August 15, 1996

Amount of Time Needed: Renewal/Consent Agenda

DEPARTMENT/OFFICE: District Attorney DIVISION: Family Justice

CONTACT: Michael D Schrunk TELEPHONE #: 248-3143

BLDG/ROOM#: Courthouse (101), Room 600

PERSON(S) MAKING PRESENTATION: Michael D Schrunk

ACTION REQUESTED:

☐ INFORMATION ONLY ☐ POLICY DIRECTION ☒ APPROVAL ☐ OTHER

SUMMARY (Statement of rationale for action requested, personnel and fiscal/budgetary impacts, if applicable): This IGA with the Services to Children and Families will fund 1.0 FTE protective services worker assigned to the child abuse investigations on CAMI cases.

8/14/96 originals to Lisa Moore

SIGNATURE REQUIRED

ELECTED OFFICIAL: Michael Schrunk

OR

DEPARTMENT MANAGER: _____

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

BOARD OF
COUNTY COMMISSIONERS
MULTNOMAH COUNTY
OREGON
96 JUL 30 PM 2:25

Office Memorandum

MICHAEL D. SCHRUNK, District Attorney

TO: Board of County Commissioners

FROM: Michael D. Schrunk

DATE: July 25, 1996

REQUESTED PLACEMENT DATE: August 1, 1996

RE: CONTRACT RENEWAL WITH SERVICES TO CHILDREN AND FAMILIES

I. Recommendation/Action Requested:
Approval

II. Background/Analysis:

The District Attorney's office CAMI grant is a regional program with participation from local law enforcement, health care, and social service agencies including Multnomah County District Attorney's Office, State of Oregon Services to Children and Families, Oregon State Police, Gresham Police Department, Multnomah County Sheriff's Office, Portland Police Bureau, and Legacy Emanuel Health Center's CARES Program, which serves as the regional child abuse referral center.

This contract renewal is late due to lengthy processing times of intergovernmental agreements between Services to Children and Families and the District Attorney's office.

III. Financial Impact:

This contract allocates \$52,664 of the CAMI grant funds to pay for one SCF worker assigned to CAMI and education and training funds.

IV. Legal Issues:
None

V. Controversial Issues:
None

VI. Link to Current County Policies:

The activities funded by this grant will enable the county to move closer to its urgent benchmark of reducing domestic abuse. Specifically, this grant will aid efforts to reduce the number of children abused or neglected.

VIII. Other Government Participation:

Government agencies participating in this program include Multnomah County District Attorney's office, Oregon Services to Children and Families, Oregon State Police, Gresham Police Department, Multnomah County Sheriff's Office, and the Portland Police Bureau.

**CONTRACT APPROVAL FORM**

(See Administrative Procedure #2106)

MULTNOMAH COUNTY OREGON

Contract # 700025Amendment # 1

CLASS I	CLASS II	CLASS III
<input type="checkbox"/> Professional Services under \$25,000	<input type="checkbox"/> Professional Services over \$25,000 (RFP, Exemption) <input type="checkbox"/> PCRB Contract <input type="checkbox"/> Maintenance Agreement <input type="checkbox"/> Licensing Agreement <input type="checkbox"/> Construction <input type="checkbox"/> Grant <input type="checkbox"/> Revenue	<input checked="" type="checkbox"/> Intergovernmental Agreement APPROVED MULTNOMAH COUNTY BOARD OF COMMISSIONERS AGENDA # <u>C-1</u> DATE <u>8/15/96</u> <u>DEB BOGSTAD</u> BOARD CLERK

Department District Attorney Division Family Justice Date 2/9/96Contract Originator Lisa Moore Phone 248-3133 Bldg/Room 101/600Administrative Contact same as above Phone _____ Bldg/Room _____

Description of Contract This contract provides funding for 1.0 FTE protective services worker located at the CAT offices. This position works with law enforcement agencies to assess and prioritize child abuse referrals from mandatory reporters in the schools.

RFP/BID # _____ Date of RFP/BID _____ Exemption Exp. Date _____

ORS/AR # _____ Contractor is ☐ MBE ☐ WBE ☐ QRFContractor Name John Barr, St. Johns SCF Office
 Mailing Address 7825 N. Lombard
Portland, OR 97203-3125

Phone _____

Employer ID# or SS# _____

Effective Date 1/1/95Termination Date 12/31/96Original Contract Amount \$ 73,466

Total Amount of Previous Amendments \$ _____

Amount of Amendment \$ 52,664 ~~52,664~~ LM 52,644Total Amount of Agreement \$ 126,130Remittance Address _____
(If Different) _____

Payment Schedule _____ Terms _____

☐ Lump Sum \$ _____ ☐ Due on receipt☐ Monthly \$ _____ ☐ Net 30☐ Other \$ _____ ☐ Other _____☐ Requirements contract - Requisition required.

Purchase Order No. _____

☐ Requirements Not to Exceed \$ _____Encumber: Yes ☐ No ☐Date 2-12-96

Date _____

Date 8-1-96Date August 15, 1996

Date _____

REQUIRED SIGNATURES:Department Manager Michael S. ...

Purchasing Director _____

(Class II Contracts Only)

County Counsel ... DuffyCounty Chair / Sheriff ...

Contract Administration _____

(Class I, Class II Contracts Only)

VENDOR CODE				VENDOR NAME					TOTAL AMOUNT		\$	
LINE NO.	FUND	AGENCY	ORGANIZATION	SUB ORG	ACTIVITY	OBJECT/ REV SRC	SUB OBJ	REPT CATEG	LGFS DESCRIPTION	AMOUNT	INC/ DEC	IND
01.	<u>56</u>	<u>023</u>	<u>2437</u>			<u>6000</u>				<u>52,644</u>		
02.												
03.												
* If additional space is needed, attach separate page. Write contract # on top of page.												

INSTRUCTIONS ON REVERSE SIDE

WHITE - CONTRACT ADMINISTRATION

CANARY - INITIATION

PINK - FINANCE

Jrg #5-1614

Multnomah County / Services to Children & Families
Intergovernmental Agreement
for the 1996 CAMI Grant

February 6, 1996

Services to Children & Families (SCF) and the County of Multnomah by and through Multnomah County District Attorney's office (MCDA) agree as follows:

A. GENERAL SCOPE

The CAMI Grant provides funding from the Child Abuse Multidisciplinary Intervention Account to Multnomah County District Attorney's office according to the grant application and award documents.

Chapter 190 of the Oregon Revised Statutes provides for intergovernmental agreements. Therefore, the MCDA and the SCF agree to the following:

1. SCF agrees to continue the pilot project aimed at improving assessment and intervention services for children who are referred to the Portland School Police by mandatory reporters in the schools.

2. The pilot program will refine current protocols so that children receive intervention services in a timely and appropriate manner consistent with the CAMI program goals.

3. The pilot project will be staffed by a full time protective services worker who will be located at the Portland School Police office and will work with the School Police in prioritizing and assessing child abuse referrals.

4. SCF shall bill the MCDA office a total of \$52,664 at the rate of \$13,166 per quarter for personnel costs on the dates outlined below.

January 1, 1996 - March 31, 1996	By 4/22/96
April 1, 1996 - June 30, 1996	By 7/22/95
July 1, 1996 - September 30, 1996	By 10/21/95
October 1, 1996 - December 31, 1996	Final by 1/20/97

5. SCF shall have administrative authority for the establishment of standards and performance of the protective services worker assigned to child abuse investigations.

6. In the event of a dispute between the parties as to the extent and the nature of the duties and function of the protective services worker assigned to child abuse investigations, the resolution shall be made by the Administrative Manager of SCF and the District Attorney or their delegated representatives.

7. Both parties are subject to the Oregon State Tort Claims Act, ORS 30.265, et. seq. The scope and limits of any and all liability for injury or damages to property or any third party shall be imposed in accordance with this law.

B. TERM

This agreement shall extend from January 1, 1996 through and including December 31, 1996.

C. TERMINATION

1. This agreement may be terminated upon 60 days mutual written consent of the parties or upon 90 days written notice by one of the parties.

2. Termination under any provision of this paragraph shall not affect any rights, obligations, or liability of CSD or MCDA which accrues prior to such termination.

E. MODIFICATION

This agreement may be modified by mutual consent of the parties. Any modification to provisions of this agreement shall be reduced to writing and signed by the parties.

F. INTEGRATION

This agreement contains the entire agreement between the parties and supersedes all prior written and oral agreements.

G. NOTICES

All notices pursuant to the terms of this agreement shall be addressed as follows:

Notices to SCF:

Jan Slick, SCF
500 Summer Street, N.E., 2nd Floor
Salem, OR 97310-1017

Notices to the County:

Mike Schrunk, District Attorney
Multnomah County DA's Office

Services to Children & Families, State of Oregon

By: *Cheryl Sab* 04/15/96
SCF Contracts Administrator Date

County of Multnomah, Oregon

By: *Michael D. Schrunk* 2-12-96
Michael D. Schrunk, District Attorney Date

By: *Beverly Stein* August 15, 1996
Beverly Stein, County Chair Date

Reviewed by:

Attorney General

Laurence Kressel
County Counsel

By: _____

Date: _____

By: *Sandra Duffy*
Sandra Duffy, Chief Assistant
Date: 7-30-96

APPROVED MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # C-1 DATE 8/15/96
DEB. BOGSTAD
BOARD CLERK

MEETING DATE: AUG 15 1996

AGENDA NO: C-2

ESTIMATED START TIME: 9:30

(Above space for Board Clerk's Use Only)

AGENDA PLACEMENT FORM

SUBJECT: Intergovernmental Contract between the Department of Community and Family Services and the City of Portland clarifying roles and responsibilities for the Singles Housing Assessment Center.

BOARD BRIEFING

Date Requested: _____

Requested By: _____

Amount of Time Needed: _____

REGULAR MEETING

Date Requested: _____

Amount of Time Needed: 5 Minutes

DEPARTMENT: Community and Family Services

DIVISION: _____

CONTACT: Lorenzo Poe/ Rey Espana

TELEPHONE: 248-3691

BLDG/ROOM: B166/7th

PERSON(S) MAKING PRESENTATION: Lorenzo Poe/Rey Espana

ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL ☐ OTHER

SUGGESTED AGENDA TITLE

Intergovernmental Agreement Between the Department of Community and Family Services and the City of Portland clarifying roles and responsibilities for the program operations, management, and facility operations of the Singles Housing Assessment Center.

8/14/96 ORIGINALS TO JOHN PEARSON

SIGNATURES REQUIRED:

ELECTED OFFICIAL: _____

OR

DEPARTMENT MANAGER: _____

Lorenzo Poe

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Office of the Board Clerk 248-3277/248-5222

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BOARD OF
COUNTY COMMISSIONERS
MULTNOMAH COUNTY
OREGON
96 AUG - 7 AM 10:21



MULTNOMAH COUNTY OREGON

DEPARTMENT OF COMMUNITY AND FAMILY SERVICES
421 SW SIXTH AVENUE, SUITE 700
PORTLAND, OREGON 97204
PHONE (503) 248-3691
FAX (503) 248-3379
TDD (503) 248-3598

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN • CHAIR OF THE BOARD
DAN SALTZMAN • DISTRICT 1 COMMISSIONER
GARY HANSEN • DISTRICT 2 COMMISSIONER
TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

TO: Board of County Commissioners

FROM: Lorenzo Poe, Director *Lorenzo Poe ms*
Department of Community and Family Services

DATE: August 1, 1996

SUBJECT: Intergovernmental Agreement with the City of Portland for the Singles Housing Assessment Center

I. Retroactive Status: Execution of this agreement has been delayed due to negotiation of contract terms primarily in the area of indemnification.

II. Recommendation/Action Requested: The Department of Community and Family Services recommends Board of County Commissioner approval of the Intergovernmental Agreement with City of Portland, for the period from December 1, 1995 to March 1, 1998.

III. Background/Analysis: On December 1, 1995 the Singles Housing Assessment Center opened as a temporary shelter in response to the closing of the Recovery Inn shelter July 1, 1995. This facility, financed and built by the City of Portland, and operated by Multnomah County is to close on March 1, 1998. The Portland Development Commission has been directed to have a permanent facility for single men and women for transfer of the services that the temporary mass shelter provides. County staff operate the shelter and provide housing assessment, placement, and follow-up assistance to homeless men and women. This agreement covers the respective responsibilities of County and City for maintenance, management, and operations of the temporary shelter.

IV. Financial Impact: There is no fiscal impact. This is a non-financial agreement.

V. Legal Issues: Under the terms of this Intergovernmental Agreement the City of Portland turned the use of the modular building, leased by the City from Modular Buildings Systems, Inc., and known as the Singles Housing Assessment Center over to Multnomah County on December 1, 1995. The terms of the Intergovernmental Agreement are that Multnomah County will maintain the building subject to normal wear and tear, at County expense, while providing shelter and services to homeless men and women. During the course of the development of the Intergovernmental Agreement County staff, and subsequently City staff, became aware that the Heating/Ventilation/Air Conditioning system was significantly undersized for the requirements of the building. The homeless population housed in the shelter have a significantly higher risk of infectious disease necessitating a higher level of air exchanges. This fact became known when a resident of the shelter was found to have infectious tuberculosis in early January, 1996. County and City staff are continuing to work together to correct the building problem. County Facilities Management will oversee the HVAC work with the \$74,400 reimbursed to the County by the City. A separate IGA will be developed between the City of Portland and County Facilities Management for the \$74,400.

VI. Controversial Issues: None

VII. Link to Current County Policies: This Intergovernmental Agreement supports the program office's goal to increase economic self-sufficiency and housing stability of low/no income households by offering a continuum of client-centered services.

VIII. Other Government Participation: This Intergovernmental Agreement reflects a partnership between Multnomah County and the City of Portland over services and housing for low income homeless people.

MULTNOMAH COUNTY CONTRACT APPROVAL FORM

(See Administrative Procedures CON-1)

Renewal ☐

Contract # **105366**

Prior-Approved Contract Boilerplate: Attached: X Not Attached

Amendment # _____

CLASS I	CLASS II	CLASS III
<input type="checkbox"/> Professional Services under \$25,000 <input type="checkbox"/> Intergovernmental Agreement Under \$25,000	<input type="checkbox"/> Professional Services over \$25,000 (RFP, Exemption) <input type="checkbox"/> PCRB Contract <input type="checkbox"/> Maintenance Agreement <input type="checkbox"/> Licensing Agreement <input type="checkbox"/> Construction <input type="checkbox"/> Grant <input type="checkbox"/> Revenue	<input checked="" type="checkbox"/> Intergovernmental Agreement <input type="checkbox"/> Intergovernmental Revenue Agreement <div style="text-align: center;"> APPROVED MULTNOMAH COUNTY BOARD OF COMMISSIONERS AGENDA # <u>C-2</u> DATE <u>8/15/96</u> <u>DEB BOGSTAD</u> BOARD CLERK </div>

Department: Community & Family Services

Division: _____

Date: August 1, 1996

Administrative Contact: Rey España/John Pearson

Phone: 248-3691 ext 2612

Bldg/Room 166/7th

Description of Contract:

This Intergovernmental Agreement between the City of Portland and Multnomah County clarifies the roles and responsibilities of each party for the County staffed Singles Housing Assessment Center.

RFP/BID #: _____ Date of RFP/BID: _____ Exemption Expiration Date: _____
 ORS/AR # _____ Contractor is ☐ JMBE ☐ WBE ☐ QRF ☒ N/A ☐ None
 Original Contract No. _____ (Only for Original Renewals)

Contractor Name: City of Portland Mailing Address: 1120 S.W. 5th. Ave., Rm. 1204 Portland, Oregon 97204-1972 Phone: (503) 823-5252 Employer ID# or SS#: 93-6002236 Effective Date: December 1, 1995 Termination Date: March 1, 1998 Original Contract Amount: \$ _____ Total Amt of Previous Amendments: \$ _____ Amount of Amendment: \$ _____ Total Amount of Agreement: \$ 0.00	Remittance Address (if different) _____ <table style="width: 100%;"> <thead> <tr> <th style="text-align: center;">Payment Schedule</th> <th style="text-align: center;">Terms</th> </tr> </thead> <tbody> <tr> <td><input type="checkbox"/> Lump Sum \$ _____</td> <td><input type="checkbox"/> Due on Receipt</td> </tr> <tr> <td><input type="checkbox"/> Monthly \$ _____</td> <td><input type="checkbox"/> Net 30</td> </tr> <tr> <td><input type="checkbox"/> Other \$ _____</td> <td><input type="checkbox"/> Other</td> </tr> </tbody> </table> <input type="checkbox"/> Requirements contract - Requisition Required Purchase Order No. _____ <input type="checkbox"/> Requirements Not to Exceed \$ _____ Encumber: Yes <input type="checkbox"/> No <input type="checkbox"/>	Payment Schedule	Terms	<input type="checkbox"/> Lump Sum \$ _____	<input type="checkbox"/> Due on Receipt	<input type="checkbox"/> Monthly \$ _____	<input type="checkbox"/> Net 30	<input type="checkbox"/> Other \$ _____	<input type="checkbox"/> Other
Payment Schedule	Terms								
<input type="checkbox"/> Lump Sum \$ _____	<input type="checkbox"/> Due on Receipt								
<input type="checkbox"/> Monthly \$ _____	<input type="checkbox"/> Net 30								
<input type="checkbox"/> Other \$ _____	<input type="checkbox"/> Other								

REQUIRED SIGNATURES:

Department Manager: Lorenzo Paez Date: 8/5/96

Purchasing Director: _____ Date: _____

(Class II Contracts Only) County Counsel: Katie Garg Date: 8/7/96

County Chair/Sheriff: _____ Date: 8/15/96

Contract Administration: _____ Date: _____

(Class I, Class II Contracts Only)

VENDOR CODE				VENDOR NAME				TOTAL AMOUNT: \$			
LINE NO.	FUND	AGENCY	ORGANIZATION	SUB ORG	ACTIVITY	OBJECT/ REV SRC	SUB OBJ	REPT CATEG	LGFS DESCRIP	AMOUNT	Inc/Dec Ind.
									NA		

If additional space is needed, attach separate page. Write contract # on top of page.

DISTRIBUTION: Contracts Administration, Initiator, Finance

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INTERGOVERNMENTAL AGREEMENT

July 31, 1996

This Agreement (Agreement) is between the City of Portland, Oregon ("City") and Multnomah County ("County").

RECITALS:

1. The City has the responsibility to provide accommodations, and the County has the responsibility to provide personal services for the Homeless citizens of Portland.
2. A health and safety emergency was declared when shelter services for a large segment of Portland's Homeless population ended July 1, 1995, with the closing of The Recovery Inn. This closure caused the City and County jointly to seek a substitute means of providing the missing services before the harsh Winter months of 1995 set in.
3. The City identified a suitable site for the Facility, described as Lots 1 - 4, Block 219, Couch's Addition, Portland, Multnomah County, Oregon, and entered into a Lease Agreement with the property owner, Portland Development Commission (PDC), for its sole use as a temporary mass shelter. The agreement also calls for all services to the Homeless to cease on March 1, 1998, and for the building to be removed and the site restored by April 1, 1998. On or before March 1, 1998, the Portland Development Commission has been directed to have a permanent mass shelter available that is suitable for transfer of the services that the temporary mass shelter provides.
4. A Consultant was selected who designed the Facility as a modular building and prepared a bid package of construction documents. The Project was then bid and a contractor was chosen.
5. The City entered into a lease agreement (Contract No. 30208, dated September 29, 1995) with Modern Building Systems, Inc. (MBSI) for the construction of a new 5,040 sq. ft. modular building to serve as a Homeless Assistance Center (Center), and is attached as Exhibit B. This is a Lease Agreement and the Title to the modular building is retained by MBSI.
6. The County will provide services for the Homeless inside the Center, which is called the Singles Housing Assessment Center (SHAC).
7. An Intergovernmental Agreement is required to clarify responsibilities.

AGREEMENT:

1. GENERAL RESPONSIBILITIES OF COUNTY

- (a) The County shall provide services for the Homeless in the Center located at 1212 NW 9th, Portland, Oregon. Specific responsibilities, such as for operations and maintenance, are described in Exhibit A (attached).
- (b) The County shall cease operations and remove its supplies and equipment no later than 5:00 pm, March 1, 1998.

2. GENERAL RESPONSIBILITIES OF CITY

- (a) The City shall provide a facility located at 1212 NW 9th for the County to provide services for the Homeless.
- (b) The City will restore the site to its condition prior to construction by April 1, 1998.

3. EFFECTIVE AND TERMINATION DATES

This Agreement shall be effective as of December 1, 1995 and shall terminate twenty seven (27) months thereafter, on March 1, 1998.

4. EARLY TERMINATION OF AGREEMENT

- (a) The City and the County, by mutual written agreement, may terminate this Agreement at any time.

5. ASSUMPTION OF EXISTING LEASE AGREEMENT

The County agrees to assume and abide by all conditions of the Lease Agreement (attached to this Intergovernmental Agreement as Exhibit B) for Block 219 Couch's Addition, Multnomah County, Oregon between the Bureau Of General Services and PDC. A Consent To Assignment shall be executed by the County, by the Bureau Of General Services, and by PDC and attached to this Intergovernmental Agreement as Exhibit C.

6. PROJECT MANAGERS

A. City Project Manager:

- (1) The City Project Manager shall be John Stephenson or such other person as shall be designated in writing by the head of the Project Management section of the Bureau of General Services.
- (2) The Project Manager is authorized to approve work and billings hereunder, to give notices referred to herein, to terminate this Agreement as provided herein and to carry out any other City actions referred to herein.

B. County Project Manager:

- (1) Craig Flower, Facilities and Property Management.
- (2) Mary Marson, Office of Community Action and Development.

7. COMPLIANCE WITH LAWS

- (a) In connection with the activities under this Agreement, the City and the County shall comply with all applicable federal, state and local laws and regulations.
- (b) The County agrees that all contractors, such as its facility operator or janitorial service provider, will comply with the Equal Employment Opportunity Certification process.

8. OREGON LAW AND FORUM

- (a) This Agreement shall be construed according to the laws of the State of Oregon.
- (b) Any litigation between the City and the County arising under this Agreement shall occur in the Multnomah County Court having jurisdiction thereof.

9. INDEMNIFICATION

- (a) To the extent permitted by Oregon law, the County shall hold harmless, defend and indemnify the City, and the City's officers, agents and employees against all claims, demands, actions and suits (including all attorney's fees and costs) brought against any of them arising from the County's work or any of County's contractor's work under this Agreement.
- (b) To the extent permitted by Oregon law, the City shall hold harmless, defend and indemnify the County, and the County's officers, agents and employees against all claims, demands, actions and suits (including all attorney's fees and costs) brought against any of them arising from the City's work or any of City's contractor's work under this Agreement

10. WORKERS' COMPENSATION INSURANCE

- (a) The County, its contractors, if any, and all employers working under this Agreement are subject employers under the Oregon workers' compensation law and shall comply with ORS 656.017 which requires them to provide workers' compensation coverage for all their subject workers. A certificate of insurance, or copy thereof, shall be attached to this Agreement as Exhibit F, if applicable, and shall be incorporated herein and made a term and part of this Agreement. The County further agrees to maintain workers' compensation insurance coverage for the duration of this Agreement.

- (b) In the event the County's workers' compensation insurance coverage is due to expire during the term of this Agreement, the County agrees to timely renew its insurance, either as a carrier-insured employer or a self-insured employer, as provided by Chapter 656 of the Oregon Revised Statutes, before its expiration and the County agrees to provide the City of Portland such further certification of workers' compensation insurance as renewals of said insurance occur.
- (c) The County's contractor agrees to accurately complete the City of Portland's Questionnaire for Workers' Compensation Insurance and for Qualification as an Independent Contractor prior to commencing work under this Agreement. The Questionnaire is attached to this Agreement as Exhibit E and shall remain attached to this Agreement and become a part thereof as if fully copied herein. Any misrepresentation of information on the Questionnaire by the County's contractor shall constitute a breach of this Agreement. In the event of breach pursuant to this subsection, the City may terminate the Agreement immediately.

11. LIABILITY INSURANCE

County is self insured for liability in accordance with ORD. 30.260 to 30.300, The Oregon Tort Claims Act.

12. CONTRACTING

The County shall not contract its Singles Housing Assessment Center Program operations under this Agreement, in whole or in part, without the written approval of the City. The County shall require any approved contractor to agree, as to the portion contracted, to fulfill all obligations of the County as specified in this Agreement. Notwithstanding City approval of a contractor, the County shall remain obligated for full performance hereunder, and the City shall incur no obligation other than its obligations to the County hereunder. The County agrees that if contractors are employed in the performance of this Agreement, the County and its contractors are subject to the requirements and sanctions of ORS Chapter 656, Workers' Compensation.

13. ASSIGNMENT

The County shall not assign this Agreement, in whole or in part, or any right or obligation hereunder, without the prior written approval of the City.

14. DISPUTE RESOLUTION

The City and County agree to resolve facility related issues at the lowest level if possible. For purposes of this section the City of Portland's facility related issues include: (A) the initial building design if consistent with the County program requirements as specified in the design process, construction if complies with the design, and subsequent facility modifications as agreed to by both the City and County; and (B) building site

and grounds. For purposes of this section Multnomah County's responsibilities include: (A) building maintenance and janitorial services; and (B) grounds on which the facility is located.

Disputes will be initially handled by the Project Managers named in this Intergovernmental Agreement. Problems that cannot be resolved within the authorities of the Project Managers will be moved incrementally upward until the City and County's respective parties reach resolution.

The City and County agree to an annual "walk through" of the Singles Housing Assessment Center as a means of annually documenting the physical condition of the building and establishing the extent of the "wear and tear" on the structure as a way to establish a base line for establishing the condition of the structure at the end of the Intergovernmental Agreement on March 1, 1998.

15. INDEPENDENT CONTRACTOR STATUS FOR COUNTY

- (a) The County is engaged as an independent contractor and will be responsible for any federal, state and local taxes and fees applicable to payments hereunder.
- (b) The County, its contractors and their employees are not employees of the City and are not eligible for any benefits through the City including, without limitation, federal social security, health benefits, workers' compensation, unemployment compensation and retirement benefits.

16. NOTICE

Any notice provided for under this Agreement shall be sufficient if in writing and delivered personally to the following addressee or deposited in the United States Mail, postage prepaid, certified mail, return receipt requested, addressed as follows, or to such other address as the receiving party hereafter shall specify in writing:

If to the City: City of Portland
 Bureau of General Services
 Attn: Karen Kramer
 1120 SW 5th, Room 1204
 Portland, Oregon 97204

If to the County: Multnomah County
 Office of Community Action & Development
 Attn: Rey Espana
 421 SW 6th Avenue, 5th Floor
 Portland, OR 97204

17. SEVERABILITY

If any provision of this Agreement is found to be illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the provision shall be stricken.

18. INTEGRATION

This Agreement contains the entire agreement between the City and the County and supersedes all prior written or oral discussions or agreements.

19. FUNDS

The City certifies that sufficient funds are available and authorized for expenditure to finance the cost of this Agreement.

20. CONSIDERATION

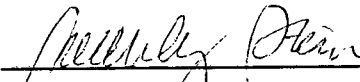
The City shall require no fee from the County as rental consideration, subject to the requirements set out in Exhibit A.1.E. rental. The consideration for this Agreement shall consist of the benefits mutually conferred by the services provided by either party pursuant to paragraphs 1 and 2 hereof.

21. EXCESS FUNDS

There will be excess funds remaining in the City's budget for the Singles Housing Assessment Center after all project costs have been identified. The "contingencies" and the "future costs" lines in the budget are not to be considered as excess funds. All excess funds will be transferred to the County for use on the project according to the County's discretion.

MULTNOMAH COUNTY

CITY OF PORTLAND

By: 
Name: Beverly Stein
Title: Multnomah County Chair
Date: August 15, 1996

By: _____
Name: Gretchen Miller Kafoury
Title: Commissioner of Public Affairs
Date: _____

APPROVED MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # C-2 DATE 8/15/96
DEB BOGSTAD
BOARD CLERK

By: _____
Name: Barbara Clark
Title: City Auditor
Date: _____

APPROVED AS TO FORM:

Deputy City Attorney

APPROVED AS TO FORM:



Katie Gaetjens
County Attorney

EXHIBIT A

SCOPE OF SPECIFIC COUNTY RESPONSIBILITIES

1. SPECIFIC RESPONSIBILITIES

In providing for the general responsibilities described in Section 1, the County shall provide not less than the following specific services:

a. POLICY

County shall operate the Center in accordance with the policies and procedures as set out in the Center's operating procedures as reviewed by the Advisory Committee.

b. OPERATION

The County shall provide and pay all operating expenses and utilities, such as water, sewer, electricity, telephone/data, etc. for the Center.

The County shall provide and pay all services, subcontractors, supplies, and equipment necessary, or unnecessary to the proper operation of the Center.

c. MAINTENANCE

The County shall provide and pay for appropriate janitorial services, maintain all equipment, and repair all damage to both interior and exterior components of the building and its grounds, which are within its perimeter fence. See Exhibit B - Lease Agreement page 5, 18. Maintenance Repair and Security for a further definition of maintenance.

All property of the County that is provided during the term of this Agreement shall be removed upon termination of the Agreement, and any portion of the building or its grounds that are damaged shall be restored to a condition which allows for normal wear and tear.

d. COMPLETION

Upon completion of the Agreement between the City and MBSI the building will be reclaimed by MBSI. The terms of that Agreement are that the building will be in the same condition as delivered, normal wear and tear excepted. The County will therefore return the Center to the City in like condition.

e. RENTAL

The County will not be required to pay a rental fee for the use of the Center providing it is used for its intended use as designed. The Agreement between the City and MBSI requires that the only use of the building be the intended use as designed. Any other use may be subject to penalties, and such penalties shall be passed on to the County.

F. CITY SITE VISITS

The County shall allow City to visit the Center at any time during normal working hours to observe that the provisions of this Agreement are being fulfilled.

G. ADVISORY COMMITTEE

The City and PDC have established an Advisory Committee that has overseen the design and construction of the Center. The same Advisory Committee will oversee the on-going property management of the Center to address any problems which may arise that are not adequately dealt with by the operator of the Center. The County has been a participant on the Advisory Committee and shall continue to be throughout the term of this Agreement. PDC will coordinate the work of the Committee during its operation.

H. REIMBURSEMENT

The City, and/or PDC shall be reimbursed by the County for any direct actual expenses incurred by the City or PDC in providing maintenance, litter control or security services deemed necessary by the Advisory Committee to address problems which may be created by the Center and are not adequately addressed by the County or the County's operator of the facility.

I. GOOD NEIGHBOR PLAN

The County shall comply with the terms of the Good Neighbor Plan that has been prepared by the Advisory Committee for the Center. A copy of the Plan is attached as Exhibit D.

END OF EXHIBIT A

COPY
SIGNATURE ORIGINAL

LEASE AGREEMENT

PORTLAND DEVELOPMENT COMMISSION BUREAU OF GENERAL SERVICES

Couch's Addition, Block 219

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LEASE

This lease is made and entered into this _____ day of _____, 1995, by and between the PORTLAND DEVELOPMENT COMMISSION, the duly designated and acting Urban Renewal Agency of the City of Portland, (Landlord) and the BUREAU OF GENERAL SERVICES of the City of Portland, (Tenant).

RECITALS:

WHEREAS, the Strategies for Fair Housing, adopted as Ordinance No. 167189, in November 1993, removed barriers to siting special housing facilities, including mass shelters, throughout the City; and

WHEREAS, The Salvation Army's Recovery Inn closed July 1, 1995 and suitable services for homeless single men and women are not available to replace this loss as of this date, however, two new facilities, the Royal Palm and the Women's Facility at SE 11th and Couch, are expected to be completed and operational within the next 12-18 months; and

WHEREAS, the City Council adopted Agenda Item No. 1017 on June 21, 1995, a report approving a temporary mass shelter to be built on City-owned property at Block 219, Lots 1-4 of Couch's Addition, on NW 9th Avenue; and

WHEREAS, the City Council adopted Substitute Resolution No. 35419, July 12, 1995 directing Tenant to construct a temporary mass shelter, adopted substitute Resolution No. 35420, July 12, 1995 directing Tenant to negotiate and execute a lease with Landlord, adopted Resolution No. 35421 directing various City Bureaus to take specific actions related to development of a temporary mass shelter, and adopted Resolution No. 35422 directing various City Bureaus to proceed with development of a permanent mass shelter, which Resolutions are attached to this lease agreement for reference only, as Exhibit B; and

WHEREAS, the temporary mass shelter will be sited for a period not to extend beyond March 1, 1998; and

WHEREAS, the proposed temporary mass shelter will be located in the heart of the River District which has been targeted by the City Council as an emerging area for new, high density residential and commercial development, which is now underway and expected to continue over the next 15 or more years; and

WHEREAS, so as to minimize the impact of the proposed temporary mass shelter on surrounding development activity and to ensure that the facility will be fully dismantled and removed from the Union Station site by April 1, 1998, a series of commitments, terms and conditions relating to the financing, development and operation of the proposed facility are essential; and

WHEREAS, the site of the temporary mass shelter is in the River District and is part of a large area targeted for redevelopment over the next ten to fifteen years in the form of high density housing, retail and commercial uses; and

WHEREAS, the River District Association is a group of concerned business persons who are undertaking steps to further and implement development plans for the River District.

NOW, THEREFORE, BE IT RESOLVED that in consideration of the leasing of the premises described below and of the mutual agreements contained herein, each party expressly covenants and agrees as follows:

1. Premises

Landlord and Tenant agree to lease the premises described as Lot 2, portion of Lot 3, the West approximate 25 feet of Lot 1 and a portion of Lot 4, plus the vacated right-of-way of NW Northrup, Block 219 Couch's Addition, Portland, Multnomah County, Oregon, consisting of approximately 11,000 sq. ft.,

located at NW Ninth Avenue near Front Avenue in Portland. The premises are bare ground. The location of the premises is highlighted on Exhibit A.

2. Term

The term of this lease shall commence on July 30, 1995, and shall terminate on whichever date is the earliest of the following: (1) March 1, 1998, (2) the date a 90 person capacity replacement homeless shelter is operational, or (3) upon thirty (30) days written notice by Tenant. Tenant acknowledges that the premises are on property scheduled for redevelopment and that Tenant's failure to vacate the premises at the end of the lease term may result in substantial financial cost to Landlord.

3. Third Party Beneficiary

Landlord and Tenant agree that the River District Association, a public benefit, non-profit Oregon corporation (Association), shall have the status of Intended Third Party Beneficiary of all those provisions which may impact Association's ability to timely complete its planned development activities, including but not limited to the lease term, termination, holdover, indemnification, assignment, and insurance provisions of this lease agreement. This status is granted upon receipt of good and valuable consideration, including Association's forbearance of its right to challenge the temporary mass shelter siting facilitated by this lease.

4. Financial Capability of Tenant

Prior to occupying the premises the Tenant must provide evidence of adequate approved funding for the operations of the facility to be placed on the premises for the term of the lease.

5. Option to Renew

This lease may not be renewed, extended, or reissued.

6. Annual Rent

a. Tenant shall pay Lessor as annual rent for the premises the amount of One Dollar only.

b. Annual rent shall be paid in advance on the first day of each calendar year throughout the term of this lease, except the first year's rent shall be paid upon the execution of this lease. The obligation to pay rent shall commence upon the commencement of the term of this lease.

7. Equal Employment Opportunity

During the term of this lease agreement, Tenant agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, gender, sexual orientation, or national origin and will comply with all other provisions of Executive Order 11246.

8. Property Taxes

Tenant shall apply to Multnomah County, Oregon for abatement of its pro rata share of any property taxes levied on the premises. Tenant shall receive full benefit of any tax exemption granted by Multnomah County on the leased premises. Landlord shall reasonably cooperate, if necessary, in Tenant's efforts to secure such abatement of property taxes. However, should a property tax exemption not be granted, Tenant shall be responsible for and will pay before delinquent all taxes or fees assessed during the term of this lease against any leasehold or personal property of any kind owned by or placed upon or about the Premises by Tenant. In addition to the rent required by this lease, Tenant shall pay any real property tax or taxes assessed and levied on the real property and improvements under this agreement. All real property tax payments shall be paid by Tenant to Landlord annually, in a lump sum, within thirty days (30) after Landlord bills Tenant. As used herein, the term "real property tax" shall not include business license fees, excise taxes, sales taxes, corporation taxes, income taxes, or any tax on personal

property which may be imposed by any city, county, state or federal government or, any special district or agency, and those taxes shall remain the responsibility of Tenant.

9. Utilities

a. Tenant shall pay promptly when due all charges for electricity, gas, heat, janitorial service within the leased Premises, telephone, water and sewage disposal, or other utilities of any kind furnished to the Premises. If Landlord receives and pays bills for any utilities to the Premises, Tenant shall reimburse Landlord upon demand. If any utility services are provided by or through Landlord, charges to Tenant shall be comparable with prevailing rates for comparable services.

b. Landlord is not by virtue of this section a partner or joint venturer with Tenant in connection with the business carried on under this Lease, and shall have no obligation with respect to Tenant's debts or other liabilities.

10. Place of Payments

Payments shall be made to:
Portland Development Commission at
1120 SW Fifth Avenue, Suite 1100
Portland, Oregon 97204-1931

or such other place as Landlord may designate. All amounts not paid by the Tenant when due shall bear interest at the rate allowed to be charged by the City of Portland City Code, currently at 1-1/2% per month. The interest rate of 1-1/2% on overdue accounts is subject to periodic adjustment to reflect Landlord's then current interest rate charged on overdue accounts.

11. Permitted Use

a. The premises shall be used by Tenant for siting of a temporary mass shelter for homeless persons. No other use may be made of the premises without the prior written consent of Landlord.

12. Styrofoam

No products containing or composed of polystyrene (Styrofoam) shall be sold or used by Tenant, unless such products are exempted from this requirement by Landlord. Exemptions shall be based upon a showing that there are no acceptable alternatives and that enforcement of this condition would cause Tenant undue hardship.

13. Nuisance, Waste, Hazard

Tenant shall refrain from any use which is improper, immoral, unlawful, objectionable or which is offensive or annoying or interferes or obstructs the rights of Landlord or other lessees or owners, users, or occupants of nearby premises. Tenant shall not create a nuisance or damage the reputation of the premises, commit or suffer any strip or waste of the premises or create or permit to be created any condition which would constitute a fire hazard, impair the strength or durability of the structure, or be dangerous to persons or property. Tenant shall not sell or permit to be sold any spirituous, vinous, or malt liquors on the premises excepting liquors Tenant may be licensed by law to sell and as may be expressly permitted by this lease. Tenant shall not sell or permit to be sold any controlled substance on or about the premises. Tenant shall not install any power machinery on the premises except under the supervision and with written consent of Landlord. Tenant shall not store gasoline or other highly combustible materials on the premises at any time. Tenant will not use the premises in such a way or for such a purpose that the fire insurance rate on the building in which the premises are located is thereby increased or that would prevent Landlord from taking advantage of any rulings of any agency of the State of Oregon, or its successors, which would allow Landlord to obtain reduced premium rates for long term fire insurance policies.

14. Hazardous Substances

(a) The term "Hazardous Substances", as used in this Lease, shall include, without limitation, flammable, explosives, radioactive materials, asbestos, polychlorinated byphenyls (PCBs), chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous waste, toxic substances or related material, petroleum and petroleum products, and substances declared to be hazardous or toxic under any law or regulation now or hereafter enacted or promulgated by any governmental authority.

(14b) Tenant shall not cause or permit to occur any violation of any federal, state, or local law, ordinance, or regulation now or hereafter enacted, related to environmental conditions on, under, or about the premises, or arising from Tenant's use or occupancy of the premises, including, but not limited to, soil and ground water conditions.

(14c) Tenant shall not cause or permit to occur the use, generation, release, manufacture, refining, production, handling, processing, storage, or disposal of any Hazardous Substance on, under, or about the Premises, or the transportation to or from the Premises of any Hazardous Substance, except as specifically disclosed on Schedule A to this lease.

(14d) Tenant shall, at Tenant's own expense, comply with all laws regulating the use, generation, storage, transportation, or disposal of Hazardous Substances ("Laws").

(14e) Tenant shall, at Tenant's own expense, make all submissions to, provide all information required by, and comply with all requirements of all governmental authorities under the Laws.

(14f) Should any governmental authority or any third party demand that a cleanup plan be prepared and that a clean-up be undertaken because of any deposit, spill, discharge, or other release of Hazardous Substances that occurs as a result of Tenant's use or occupancy of the Premises, then Tenant shall, at Tenant's own expense, carry out all such cleanup plans.

(14g) Tenant shall promptly provide all information regarding the use, generation, storage, transportation, or disposal of Hazardous Substances that is requested by Landlord. If Tenant fails to fulfill any duty imposed under this Paragraph (14) within a reasonable time, Landlord may do so; and in such case, Tenant shall cooperate with Landlord in order to prepare all documents Landlord deems necessary or appropriate to determine the compliance therewith, and Tenant shall execute all documents promptly upon Landlord's request. No such action by Landlord and no attempt made by Landlord to mitigate damages under any Law shall constitute a waiver of any of Tenant's obligations under this Paragraph (14).

(14h) Tenant will be responsible for environmental testing of the site and Tenant shall pay all costs associated with any environmental remediation required under any law or regulation which may be necessitated during construction activities.

(14i) Tenant's obligations and liabilities under this Paragraph (14) shall survive the expiration or termination of this lease; provided however, Tenant shall have no obligation or liability for any pre-existing condition on the premises unless Tenant's activities on the premises exacerbates such pre-existing condition.

15. Fire Prevention

Tenant shall exercise due and reasonable care and caution to prevent and control fire on the premises and shall install fire extinguisher's throughout the premises in accordance with rules and regulations as set forth by the Fire Marshal. All paints, oils and other flammable materials shall be stored in suitably protected out-buildings or compartments in accordance with rules and regulations as set forth by the Fire Marshal.

16. Acceptance of Premises

Tenant has examined the premises and accepts them in "as is" condition. No representations or warranties as to the condition of the premises have been made by Landlord or its agents. Landlord shall have no liability to Tenant for any damage or injury caused by the condition of the premises. All furnishings, appliances, fixtures, improvements, surface coverings, decoration and other contents of the premises shall be provided by Tenant at its own expense.

17. Plan Review/Permits

a. Landlord shall review the site and the architectural design of the proposed facility at the preliminary and final design phases to insure compatibility with the surrounding area. Landlord review rights are to be applied within the context of the budget limitations established for the project and in the time frame in which it is scheduled to be constructed.

b. Landlord agrees that, within ten (10) days after receipt of written request from Tenant, it will join in any and all applications for permits, licenses or other authorizations required by any governmental or other body claiming jurisdiction in connection with any work which the Tenant may do hereunder, and will also join in any grants for easements for electric, telephone, gas, water, sewer and such other public utilities and facilities as may be reasonably necessary in the operation of the premises or of any improvements that may be erected thereon; and if, at the expiration of such ten (10) days' period, Landlord shall not have joined in any such application, or grants for easements, Tenant shall have the right to execute such application and grants in the name of Landlord, and, for that purpose, Landlord hereby irrevocably appoints Tenant as its Attorney-in-fact to execute such papers on behalf of Landlord.

18. Maintenance Repair and Security

- a. Tenant shall keep in good state of repair and in first class condition, any and all buildings, furnishings, fixtures and equipment which are brought or constructed or placed upon the premises by the Tenant and Tenant will repair, replace and renovate as often as necessary to keep the buildings and premises in first class repair and condition and in compliance with all applicable statutes and codes; Tenant will keep the sidewalks free and clear of ice, snow, litter, rubbish, debris and obstruction; Tenant will keep the premises in a clean and orderly condition at all times with regular removal of litter, rubbish and debris; and Tenant will maintain and repair sidewalks, driveways, parking strips and landscaping as often as necessary.
- b. Tenant will keep the premises as secure as possible from the entry or loitering of unauthorized persons which shall include fencing and security lighting of the premises and/or adjacent Landlord owned property as agreed by Tenant and Landlord.
- c. Landlord has no obligation under this section to provide any maintenance and repair to the buildings, improvements or premises. If Tenant fails to provide maintenance, security and repair as described in this section, or as may be necessary on Landlord's adjacent property when caused by the siting of a temporary mass shelter on the premises, Landlord may, after giving notice as provided in Section 29.b, institute such measures as necessary to correct the problem at Tenant's expense. If Tenant enters into an operating agreement for the premises with Multnomah County or other operator such agreement will provide that the Tenant and Landlord will be reimbursed by the operator for any direct actual expense incurred by Tenant or Landlord in providing maintenance, litter control, or security services deemed necessary by the Homeless Shelter Advisory Group, as established by Landlord and Tenant, which are not adequately addressed by Multnomah County or the operator after notice as provided in Section 29.b. Such operating agreement will also require that the operator comply with a Good Neighbor Plan which shall be developed and adopted in accordance with the requirements for certification of mass shelters as set forth at PCC 33.285.050.B.1.

19. Liens

Tenant shall keep the premises free from all liens, including mechanics liens, arising from any act or omission of Tenant or those claiming under Tenant. Tenant shall pay as due all claims for work done, for services rendered or material furnished to the premises at its request. If Tenant fails to pay any claims or to discharge any lien, Landlord may do so and collect all costs of discharge, including its reasonable attorneys fees. Such action by Landlord shall not constitute a waiver of any right or remedy Landlord may have on account of Tenant's default. Tenant may withhold payment of any claim in connection with a good faith dispute over the obligation to pay, so long as Landlord's property interests are not jeopardized. If a lien is filed as a result of nonpayment, Tenant shall, within ten days (10) after knowledge of filing, execute a discharge of the lien or deposit with Landlord cash or a sufficient corporate surety bond or other security satisfactory to Landlord in an amount sufficient to discharge the lien plus any costs, attorney's fees or other charges that could accrue as a result of any foreclosure sale or sale under the lien. This lease shall be subject and subordinate to such liens and encumbrances as are on or as Landlord may hereafter impose on the land and building, and Tenant shall upon request of Landlord, execute and deliver agreements of subordination consistent with this section.

20. Eminent Domain

a. Either party receiving any notice of an intended taking affecting the premises or any portion thereof, any service of legal process relating to condemnation or any other notification in connection with any taking, condemnation or purchase, sale or transfer in lieu of condemnation, shall promptly give the other party notice. For purposes of this lease, taking or condemnation includes a sale to a purchaser with the power of eminent domain in the face of a threat or the probability of the exercise of the power.

b. If all or a portion of the premises, is taken by a corporation or governmental authority having right of eminent domain, by exercise of that right or by purchase, whether the taking be a direct physical taking or an indirect taking compensable by way of severance damages or the like, Landlord shall be entitled to all of the proceeds of the taking and Tenant shall have no claim against Landlord as a result of the taking except for a return of prepaid rent. If the premises remaining are not sufficient for practical operation of Tenant's business; this lease shall terminate as of the date possession of the premises is taken.

21. Indemnification

a. To the extent permitted by Oregon law, Tenant shall pay the costs of and defend Landlord, its officers, agents and employees from any and all liability, damage, expenses, attorney's fees, causes of actions, suits, claims or judgments, arising out of or connected with (i) the use, occupancy, management, or control of the premises, (ii) any failure of Tenant to comply with the terms of this lease or any violation of law or ordinance, and (iii) the acts or omissions of Tenant, its agents, officers, directors, employees, or invitees; provided, however, that Tenant shall not be liable for claims caused by the sole negligence of Landlord, its officers, agents or employees. Tenant shall, at its own cost and expense, defend any and all suits which may be brought against Tenant or Landlord, their officers, agents or employees, either alone or in conjunction with others upon any such above mentioned cause or claim, and shall satisfy, pay, and discharge any and all judgments; including attorney fees and costs, that may be recovered against Landlord or Tenant, their officers, agents and employees in any such action or actions in which they may be party defendants.

b. Landlord, its officers, agents and employees shall not be liable for any injury to the goods, stock, merchandise or any other property of Tenant or to any person in or upon the premises including but not limited to damage by fire, explosion, falling plaster, steam, gas, electricity, water or rain which may leak from any part of the building or from the pipes, appliances or plumbing works therein or from the roof, street or subsurface or from any other place resulting from dampness or any other cause whatsoever, or collapse of the building in which premises are located or any portion thereof, or any other cause, unless caused by or due to the sole negligence of Landlord, its officers, agents, and employees.

c. Tenant shall give Landlord prompt notice in case of casualty or accidents on the premises. Tenant, as a material part of the consideration to Landlord, hereby assumes all risk of damage to property or injury to persons in, upon or about the premises from any cause other than Landlord's sole negligence, and Tenant waives all claims in respect thereof against Landlord.

d. Landlord or its officers, agents and employees, shall not be liable for any latent or patent defect in the premises. In addition to the indemnity provided above, Tenant agrees to pay the costs of and defend Landlord, or its officers, agents and employees from and against all damages, costs, liabilities, and expenses caused by, arising out of, or in connection with, the handling, storage, discharge, transportation, or disposal of hazardous or toxic wastes or substances, pollutants, oils, materials or contaminants, as those terms are defined by federal, state or local law or regulation, as amended from time to time. Damages, costs, liabilities and expenses shall include any amounts claimed to be owed by any regulating and administering agency.

22. Liability Insurance

Tenant agrees to obtain, maintain, and keep during the term of this agreement comprehensive general liability and auto liability insurance written on an "occurrence" basis. Such insurance shall be in the amount of not less than \$2,000,000 combined single limit for liability insuring bodily and/or personal injury, including death and disease, and property damages. Insurance shall be without prejudice to coverage otherwise existing and include coverage for auto, operations, products, completed operations, negligent acts. Tenant agrees prior to commencement of the performance hereunder to provide a Certificate of Proof of Insurance naming the Portland Development Commission, its respective officers, agents, and employees as additional insureds. The certificate shall provide that coverage afforded will not be cancelled without prior written notice to the Commission. If Tenant has a program of self-insurance in conformance with the laws and regulations of the State of Oregon the Tenant may so certify in lieu of providing the insurance and proof of insurance as stated in this section. The Landlord acknowledges that the Bureau of General Services is a sub-division of the City of Portland, a self-insured municipal corporation.

23. Workers' Compensation Insurance

Landlord acknowledges the Bureau of General Services is a subdivision of the City of Portland, a self-insured municipal corporation, a self-insured employer as provided by Chapter 656 of the Oregon Revised Statutes.

24. Damage or Destruction

In the event of the damage or destruction of the premises by fire, or by fire and water or other casualty to the extent of fifty percent (50%) or more of the value thereof prior to the casualty, Tenant may elect either to reconstruct or not to reconstruct the premises. If the election is not to reconstruct the premises, then this lease shall terminate as of the date of casualty. If election is made not to reconstruct, Tenant shall promptly remove all improvements on the premises and restore the premises to the same or better condition as immediately prior to the commencement of the lease. If, however, the repair so occasioned shall not amount to 50% percent of the value prior to the casualty, then Tenant shall repair the damaged portion of the premises with all convenient speed. Landlord shall not be required to make any repairs or replacements of any improvements, fixtures or other personal property of Landlord. Landlord shall be entitled to all proceeds of insurance.

25. Assignment and Subletting

Tenant may assign this lease or any interest herein to another governmental agency to operate a homeless shelter. Subject to the foregoing sentence, Tenant shall not sublet the premises or any part thereof, or any right or privilege pertinent thereto, and shall not sell or otherwise transfer any ownership interest in any corporate lessee, or permit any other person (the agents, employees and invitees of Tenant excepted) to occupy or use the premises or any portion thereof, without first obtaining the written consent of Landlord. Consent by Landlord to one assignment, subletting, transfer, occupation, or use by another person shall not be deemed to be a consent to any subsequent assignment, subletting, transfer, occupation

or use by another person. Consent to an assignment, sublet, transfer, occupation or use shall not release the original named Tenant from liability for the continued performance of the terms and provisions on the part of Tenant to be kept and performed, unless Landlord specifically and in writing releases the original named Tenant from liability. Any assignment, subletting, transferring, occupation or use without the prior written consent of Landlord shall be void and shall, and at the option of Landlord, terminate this lease. This lease shall not, nor shall any interest herein, be assignable, as to the interest of Tenant, by operation of law, without the prior written consent of Landlord. Landlord shall not unreasonably withhold its consent to any assignment, subletting, transfer, occupation or use provided the rent paid by the assignee or subtenant is not less than the rent required by this lease and the proposed Tenant is compatible with Landlord's normal standards for the premises. If Tenant proposes a subletting, assignment, transfer, occupation or use to which Landlord is required to consent under this section, Landlord shall have the option of terminating this lease and dealing directly with the proposed subtenant, or assignee, or any third party. If an assignment, subletting, transfer, occupation or use is permitted, any cash profit, or the net value of any other consideration received by Tenant as a result of such transaction, shall be paid to Landlord promptly following its receipt by Tenant.

26. Assignability

The covenants and conditions herein contained, subject to the provisions as to assignment, apply to and bind the heirs, successors, executors, administrators and assigns of the parties.

27. Sale/Lease/Assignment by Landlord

In the event of any sale of the premises by Landlord, Landlord shall be and is hereby entirely freed and relieved of all liability under any and all of its covenants and obligations contained in or derived from this lease arising out of any act, occurrence or omission occurring after the consummation of the sale. The purchaser, at such sale or any subsequent sale of the premises, shall be deemed, without any further agreement between the parties and any such purchaser, to have assumed and agreed to carry out any and all of the covenants and obligations of Landlord under this lease. Landlord may sell, lease, assign or otherwise commit the premises to another party without incurring any obligation to Tenant, subject to this lease.

28. Entry by Landlord

Landlord reserves, and shall at any and all times have, upon notice to Tenant, the right to enter the premises to inspect the same.

29. Default by Tenant

The following shall be events of default:

- a. Failure of Tenant to pay any rent or other charge required by this lease within ten (10) days after it is due;
- b. Failure of Tenant to comply with any term or condition or fulfill any obligation of this lease other than payment of rent or other charges, within five (5) days after written notice by Landlord specifying the nature of the default with reasonable particularity. If the default is of such a nature that it cannot be completely remedied within the five (5) day period this provision shall be complied with, if Tenant begins correction of the default within the five (5) day period and thereafter proceeds with reasonable diligence and in good faith to correct the default as soon as practical;
- c. The abandonment of the premises by Tenant or the failure of Tenant of fifteen (15) days or more to occupy the property for one or more of the designated purposes of this lease unless such failure is excused under other provisions of this lease;

- d. The bankruptcy or insolvency of Tenant or if a receiver or trustee is appointed to take charge of any of the assets of Tenant, sub-lessees or assignees in or on the premises and such receiver or trustee is not removed within thirty (30) days after the date of appointment, or in the event of judicial sale of the personal property in or on the premises upon judgment against Tenant or any sub-lessee or assignee thereunder.

30. Remedies On Default by Tenant

a. In the event of a default, Landlord may elect to terminate Tenant's right to possession of the premises by notice to Tenant. Following such notice, Landlord may re-enter, take possession of the premises and remove any persons or property by legal action or self-help, with the use of reasonable force and without liability for damages. Landlord shall have a security interest in Tenant's property on the premises at the time of re-entry to secure all sums owed or to become owing Landlord under this lease. Perfection of such security interest shall be taking possession of the property or otherwise as provided by law.

b. Following re-entry by Landlord because of Tenant's default, Landlord may re-let the premises for a term longer or shorter than the term of this lease and upon any reasonable terms, including the granting of rent concessions to the new tenant. Landlord may alter, refurnish, or change the character or use of the premises in connection with such re-letting. No such re-letting by Landlord following Tenant's default shall be construed as an acceptance or a surrender of the premises. If rent received upon re-letting exceeds the rent received under this lease, Tenant shall have no claim to the excess.

c. Following re-entry, Landlord shall have the right to recover from Tenant the following charges:

- i. All unpaid rent or other charges for the period prior to re-entry, plus late charges as provided by this lease;
- ii. All costs incurred by Landlord by reason of Tenant's default, including, but not limited to the cost of recovering the premises, including without limitation, the cost of clean up and repair and preparation for a new tenant, and the cost of correcting any defaults;
- iii. Reasonable attorney's fees incurred in connection with the default, whether or not any litigation has commenced.

d. Landlord may institute actions periodically to recover damages as they accrue throughout the lease term and no action for accrued damages shall be a bar to a later action for damages subsequently accruing. Nothing in this lease shall be deemed to require Landlord to wait until the lease expires to institute action. Landlord may obtain a decree of specific performance requiring Tenant to pay damages as they accrue. Alternately, Landlord may elect in any one action to recover accrued damages plus damages attributable to the remaining term of the lease equal to the difference between the rent under this lease and the reasonable rental value of the premises for the remainder of the term, discounted to the time of judgement at the rate of six percent (6%) per annum.

e. In the event that Tenant remains in possession following default and Landlord does not elect to re-enter, this lease will remain in effect and Landlord may enforce all of its rights and remedies hereunder and Landlord may recover all unpaid rent or other charges, plus late charges, and shall have the right to cure any non-monetary default and recover the cost of such cure from Tenant. In addition, Landlord shall be entitled to recover attorney's fees reasonably incurred in connection with the default, whether or not litigation has commenced. Landlord may institute actions to recover such amount as they accrue and no one action for accrued damages shall bar a later action for damages subsequently accruing.

f. The foregoing remedies shall not be exclusive but shall be in addition to all other remedies and rights provided under applicable law, and no election to pursue one remedy shall preclude resort to another consistent remedy. Tenant's liability to Landlord for default shall survive termination of this lease.

31. Default by Landlord, Remedies

Landlord shall not be in default unless Landlord fails to perform obligations required of Landlord within a reasonable time. However, Landlord shall perform its obligations within thirty (30) days after receiving written notice from Tenant specifying where and how Landlord has failed to perform its obligations. However, if the nature of Landlord's obligation is such that more than thirty (30) days are required for performance then Landlord shall not be in default if Landlord commences performance within such thirty (30) day period and thereafter diligently prosecutes the same to completion. In no event shall Tenant have the right to terminate this lease as a result of Landlord's default and Tenant's remedies shall be limited to damages and/or an injunction.

32. Landlord's Inability to Perform

Landlord shall not be deemed in default for the nonperformance or for any interruption or delay in performance of any of the terms, covenants and conditions of this lease if due to any labor dispute, strike, lockout, civil commotion or operation, invasion, rebellion, hostilities, military or usurped power, sabotage, governmental regulations or controls, inability to obtain labor, services or materials, or through act of God or other cause beyond the reasonable control of Landlord, providing such cause is not due to the willful act or neglect of Landlord.

33. General Provisions

a. Cumulative Rights and Remedies. No right or remedy or election hereunder shall be deemed exclusive but shall, whenever possible, be cumulative with all other rights and remedies at law or in equity.

b. Attorney Fees. In the event that suit, action or appeal is instituted by Landlord or Tenant to enforce compliance with any of the terms, covenants and conditions of this lease on the part of the other to be kept and performed, the prevailing party shall recover in addition to the costs and disbursements provided by statute, such sums as the court may judge reasonable as attorneys fees.

c. Time of the Essence. Time is of the essence in this lease.

d. Non-Waiver. Acceptance by Landlord of any rental or other benefits under this lease shall not constitute a waiver of any default. Any waiver by Landlord of the strict performance of any of the provisions of this lease shall not be deemed to be a waiver of subsequent breaches of a different character, occurring either before or subsequent to such waiver, and shall not prejudice Landlord's right to strict performance of the same provision in the future or of any other provision of this lease.

e. Amendments. This lease shall not be amended or modified except by agreement in writing signed by the parties.

f. Grammatical Changes. Wheresoever the word landlord or tenant is used herein, it relates also to the Landlord or Tenant jointly and severally, if there may be more than one tenant or landlord herein, and to their respective heirs, personal representatives, successors in interests and assigns; and the pronouns used herein shall be construed as the context and the sense and general purport of this instrument may require.

g. For Rent Signs. During the period of ninety (90) days prior to the date for the termination of this lease, or upon default by Tenant, Landlord may post on the premises a sign notifying the public that the premises are "for rent" or "for lease" or "for sale."

h. Exhibits. Exhibits which are referred to in this lease are attached hereto and by this reference incorporated herein.

i. Authority of Tenant. If Tenant is a corporation, each individual executing this lease on behalf of that corporation each shall be duly authorized to execute and deliver this lease on behalf of the corporation, in accordance with the bylaws of the corporation, and the corporation warrants and represents that this lease is binding on the corporation.

j. Quiet Possession. Upon Tenant paying the rent reserved hereunder and observing and performing all of the covenants, conditions and provisions on Tenant's part to be observed and performed hereunder, Tenant shall have quiet possession of the premises for the entire term hereof, subject to all provisions of this lease.

k. Recordation. Neither Landlord or Tenant shall record this lease, but a short form memorandum hereof may be recorded at the request of Landlord.

l. Section Headings. The section headings to the sections of this lease are not part of the lease and shall have no effect upon the construction or interpretation of any part of it.

m. Complete Agreement. There are no oral agreements between Landlord and Tenant affecting this lease, and this lease supersedes and cancels any and all previous negotiations, arrangements, brochures, advertising, agreements and understandings, oral or written, if any, between Landlord and Tenant or displayed by Landlord or its agents to Tenant with respect to the subject matter of this lease, the premises or the building. There are no representations between Landlord and Tenant or between any real estate broker and Tenant other than those contained in this lease and all reliance with respect to any representations is solely upon representations contained in this lease.

n. Joint Obligation. If there be more than one Landlord, the obligations imposed hereunder shall be joint and several.

o. Third Parties. Landlord and Tenant are the only parties to this lease; and except as provided in Section 3 above, as such are the only parties entitled to enforce its terms. Except as provided in Section 3 above, nothing in this lease gives or shall be construed to give or provide any benefit, direct, or indirect, or otherwise to third parties unless third persons are expressly described as intended to be beneficiaries of its term.

p. Partial Invalidity. Any provision of this lease which shall prove to be invalid, void or illegal shall in no way affect, impair or invalidate any other provision hereof and other provisions shall remain in full force and effect.

q. Observance of Law. Tenant, at Tenant's expense, shall comply with all laws, rules, orders, ordinances, directions, regulations, and requirements of federal, state, county and municipal authorities, now in force or which may hereafter be in force during the term of this lease, including but not limited to, the Americans with Disabilities Act of 1990, which shall impose any duty upon Landlord or Tenant with respect to the use, occupation or alteration of the premises.

r. Choice of Law. This lease shall be governed by the laws of the State of Oregon.

34. Surrender Upon Termination.

a. Tenant shall remove all improvements, including buildings, foundations, structures, shelters, furnishings, furniture and trade fixtures within thirty (30) days of the expiration of the term of this lease or earlier termination for any reason. Failure to do so shall be an abandonment of the property and Tenant shall have no further rights therein except as provided below. Landlord may elect to proceed as follows with respect to such abandoned property:

i. Dispose of the property as Landlord sees fit, at Tenant's cost, or

- ii. Following twenty day (20) written notice to Tenant, remove the property and place it in public storage for Tenant's account, in which case Tenant shall be liable for the cost of removal, transportation and storage, plus interest as provided herein from the date of all expenditures.

b. Should Tenant fail to vacate the premises when required, Landlord's rights shall be as follows:

Landlord may elect to take legal action to eject Tenant from the premises and to collect any damages caused by Tenant's wrongful holding over.

35. Holding Over

Tenant may not remain in possession of the premises or any part thereof after the expiration of the term hereof. Landlord and Association specifically reserve all available remedies in the event of occupancy beyond the term of this lease, which shall be construed as tenancy at sufferance.

36. Tenant's Statement

Tenant shall, from time to time, upon written request of Lessor, execute, acknowledge and deliver to Landlord or its designate a written statement stating the date this lease was executed, the date the term commenced, the date the lease expires, the date Tenant entered into occupancy of the premises, the amount of monthly rent and the date to which such rent has been paid, and certifying that this lease is in full force and effect and has not been assigned, modified, supplemented or amended in any way (or specifying the date and terms of agreement so affecting this lease), that this lease represents the entire agreement between the parties as to this lease, that all conditions under this lease be performed by the Landlord have been satisfied, that all required contributions by Landlord to Tenant on account of Tenant's improvements have been received, that on this date there are no existing defenses or offsets which Tenant has against the enforcement of this lease by Landlord,, and that no security has been deposited with Landlord except as expressly set forth herein. It is intended that any such statement delivered pursuant to this paragraph may be relied upon by a prospective purchaser of 's interest or a mortgagee of Landlord's interest or assignee of any mortgage upon Landlord's interest in the building.

37. Notices

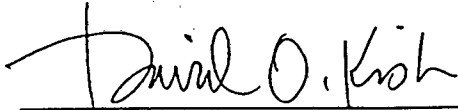
Any notices required or permitted by law or this lease to be given to either party shall be sufficiently given if sent by United States certified mail addressed as specified below, or to such other address as either party may specify to the other in writing from time to time during the term of this lease:

TO LANDLORD: PORTLAND DEVELOPMENT COMMISSION
Property Transactions Section
1120 SW Fifth Avenue, Suite 1100
Portland, Oregon 97204-1931

TO TENANT: BUREAU OF GENERAL SERVICES
Property Management
1120 SW Fifth Avenue, Room 1204
Portland, Oregon 97204

IN WITNESS WHEREOF, the Landlord and the Tenant have executed this lease in triplicate on the day and year first herein written, a corporate signature of Tenant being by authority of the Board of Directors of the executing corporation.

BUREAU OF GENERAL SERVICES, TENANT



David O. Kish, Director


Date

8/15/95

APPROVED AS TO FORM:

Deputy City Attorney

PORTLAND DEVELOPMENT COMMISSION, LANDLORD



Jan Burreson, Executive Director

Date

APPROVED AS TO FORM:



Legal Counsel, Portland Development Commission

EXHIBIT A

Location of Leased Premises

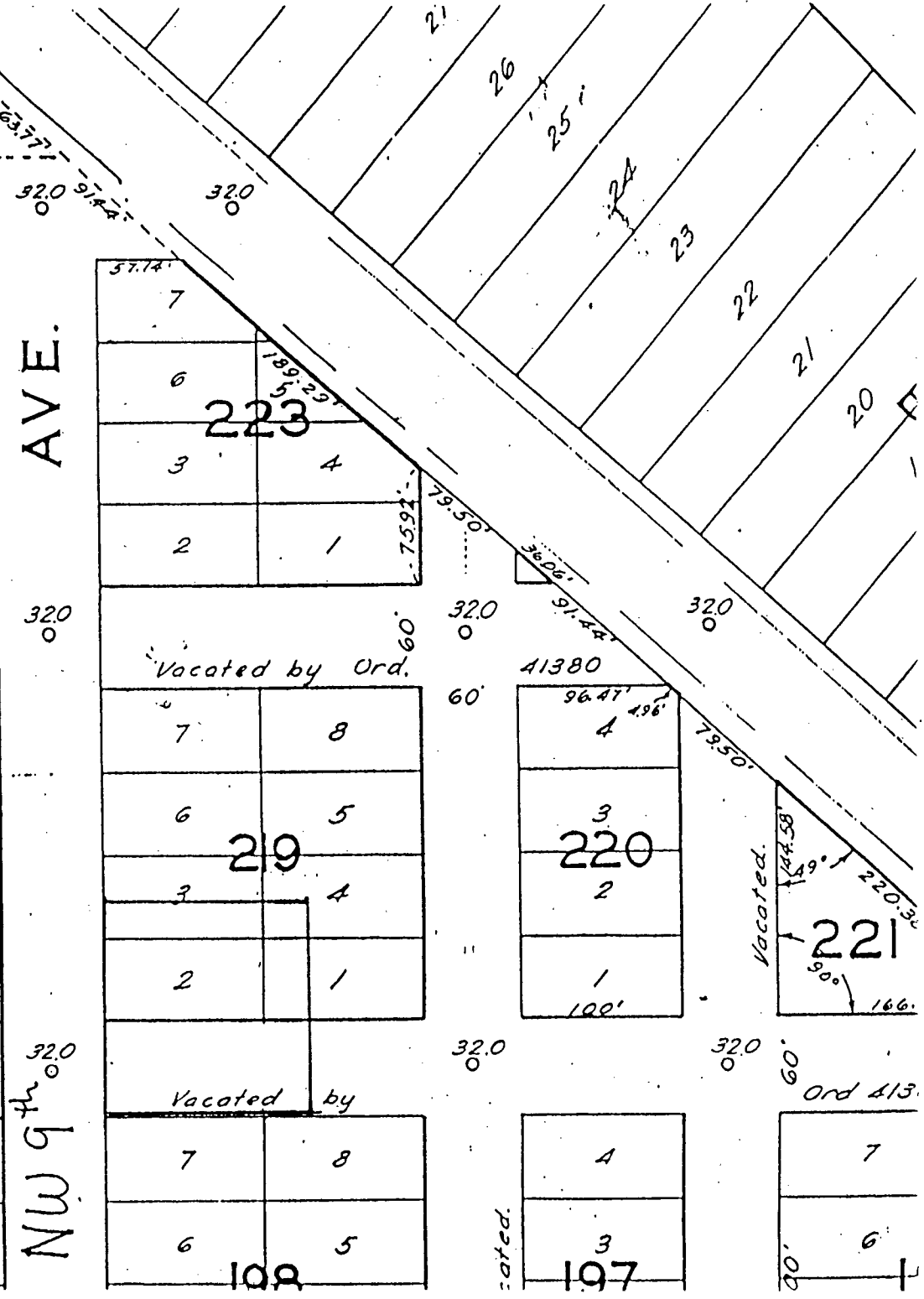
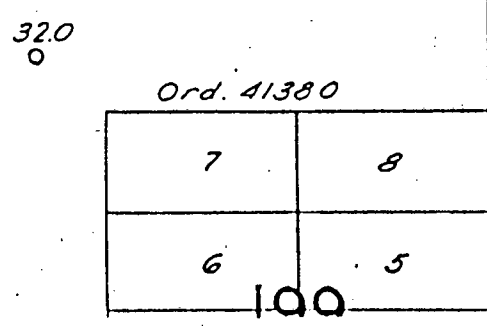
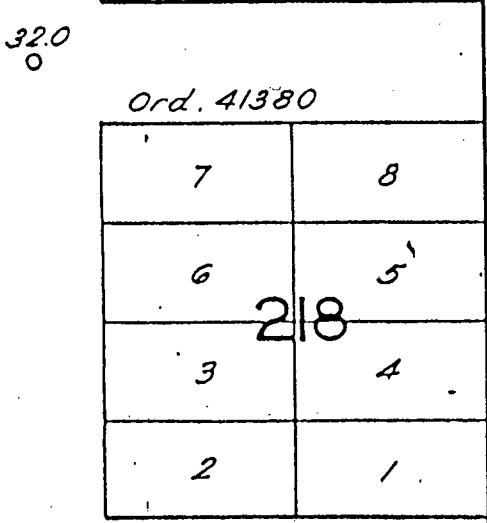
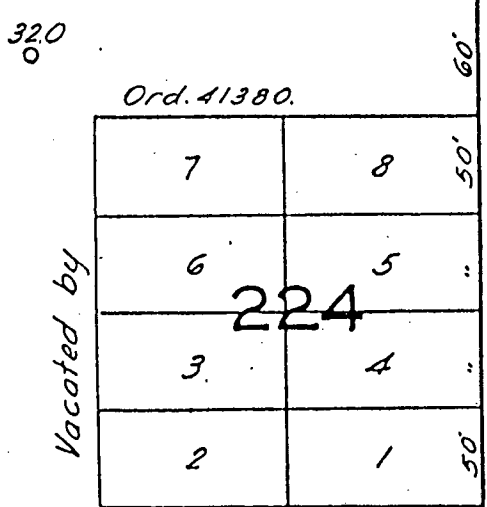
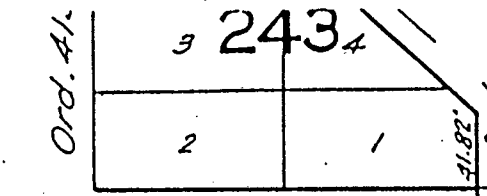
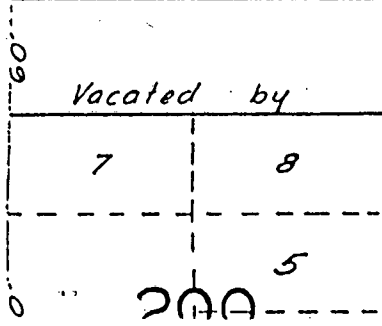
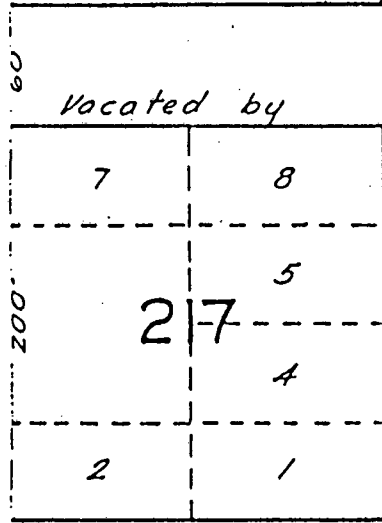
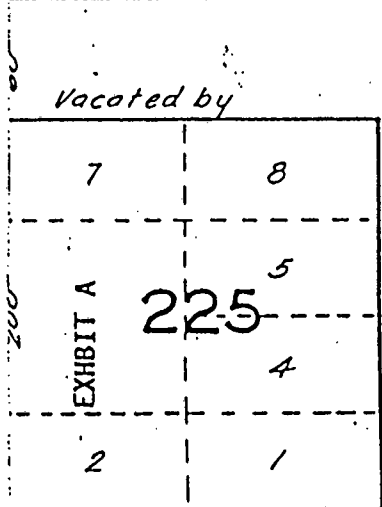
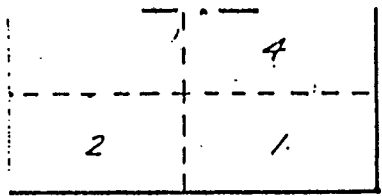


EXHIBIT B

Adopted City Resolutions

SUBSTITUTE

RESOLUTION No.

35419

Designate a health and safety emergency and direct the Bureau of General Services to construct a temporary mass shelter (Resolution)

WHEREAS, the City of Portland has responsibility for addressing the housing needs of all its citizens, including homeless persons; and

WHEREAS, the Recovery Inn has provided critically needed shelter for a portion of Portland's homeless population; and

WHEREAS, the Recovery Inn closed on June 30, 1995, leaving the homeless population, previously served by that facility, without a shelter because no other shelter of this type exists; and

WHEREAS, the lack of shelter caused by the closing of the Recovery Inn will become critical the winter of 1995-96; and

WHEREAS, the only way the City can be certain a facility will be available to meet this critical homeless shelter need is immediately to take the steps necessary to locate or site a temporary mass shelter to meet the need formerly met by the Recovery Inn; and

WHEREAS, the City has been unable to locate a satisfactory existing structure to serve as a replacement mass shelter. Existing structures suitable for mass shelters are difficult to locate, and costly, and time consuming to retrofit. The closure of Recovery Inn was unexpected and there has been insufficient time to find an existing building and accomplish necessary adaptations for mass shelter use; and

WHEREAS, the City has reviewed a number of potential sites owned by government agencies and available for rapid, temporary development. The City inventoried city-owned sites that could meet five criteria and polled other public agencies to establish the availability of sites. Ten sites were identified and evaluated; and

WHEREAS, Block 219, lots 1-4 of Couch's Addition, located on NW 9th Avenue, (hereafter the subject site) is a satisfactory site because it's location is in accord with the Shelter Reconfiguration Plan, appropriately zoned, within walking distance to downtown, in proximity to social service providers, and in public ownership; and

WHEREAS, the subject site is owned by the Portland Development Commission and is available for use as a temporary mass shelter for three years, until redevelopment is scheduled to occur; and

WHEREAS, the subject site is located in the River District and the Central City Plan District and is subject to design review; and

WHEREAS, requiring a replacement temporary mass shelter at the subject site to complete design review and fully satisfy all other zoning code requirements that would apply to a permanent mass shelter could prevent construction at the proposed site altogether and would be certain to prevent construction and occupancy of a replacement mass shelter before the winter of 1995 begins; and

WHEREAS, the City is presently exploring permanent solutions for the homeless shelter need created by the closing of the Recovery Inn, but those solutions will not be in place for the 1995 winter and may not be in place until after the winter of 1997-98; and

WHEREAS, PCC 33.296 allows for "short-term and minor deviations from the requirements of the zoning code for uses which are truly temporary in nature, will not adversely impact the surrounding area and land uses, and which can be terminated and removed immediately"; and

WHEREAS, the City Council finds that a temporary mass shelter on the subject site will be "short-term and minor" because a permanent facility is planned to be available not later than March 1, 1998, and the City will ensure the temporary facility will comply with as many applicable zoning code requirements as can reasonably be satisfied while at the same time ensuring the temporary mass shelter is open for operation not later than November, 1995; and

WHEREAS, the temporary facility will not adversely impact the surrounding area and land uses because the land within 400 ft. surrounding the facility is either vacant or in uses such as a police mounted patrol facility, parking lots, a flour mill, a locomotive fueling station, and railroad tracks which can coexist in harmony with a properly run temporary mass shelter, which this shelter will be. This temporary mass shelter actually will have a beneficial impact on the area and the Central City by providing homeless persons places other than the streets to sleep; and

WHEREAS, the building that will house the temporary mass shelter will be of a temporary type and design that can be removed immediately after the short-term need caused by the closure of the Recovery Inn can be met at a permanent facility; and

WHEREAS, under PCC 33.296.030, temporary activities and structures needed as the result of health and safety emergencies, such as this sudden loss of housing for people who formerly received shelter at Recovery Inn, are allowed for the duration of the emergency; and

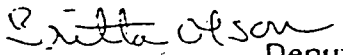
WHEREAS, the legislative procedures provided at PCC 33.740 for "establishment and modification of land-use plans, policies, regulations and guidelines", do not apply to Council legislative declarations of emergency under PCC 33.296;

35419

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Portland, that:

- a. Pursuant to PCC 33.296 a health and safety emergency is declared to exist.
- b. The Bureau of General Services is directed to continue steps already taken and to take all appropriate additional steps necessary, working with appropriate city bureaus, to site, construct and ensure operation of a temporary mass shelter on the subject site not later than November, 1995.
- c. This shelter will be a temporary mass shelter and will cease operations not later than March 1, 1998.
- d. The Bureau of General Services shall consult with and seek input from the Portland Bureau of Planning and consider incorporating any recommendations, consistent with the overriding council directive that the facility be open on or before November, 1995.
- e. The Bureau of General Services shall ensure that the proposed temporary mass shelter complies with the standards set forth at PCC 33.285.050.B(1-7.10) for permanent mass shelters, to the extent those standards can be met consistently with the overriding council directive that the temporary mass shelter be open on or before November, 1995. In any event, a Good Neighbor Plan shall be developed and adopted in accordance with the requirement for certification of mass shelters set forth at PCC 33.285.050.B.1.
- f. The Bureau of General Services shall take all reasonable steps to mitigate any impacts on adjoining properties or land uses by the proposed temporary mass shelter, consistent with the council directive that the temporary mass shelter be open on or before November, 1995.

adopted by the Council, JUL 12 1995
Commissioner Kafoury
Aren Kramer:SGraham
July 12, 1995

BARBARA CLARK
Auditor of the City of Portland
By  Rita Olson
Deputy

. SUBSTITUTE .
RESOLUTION No. 35420

Authorize the Bureau of General Services to negotiate and execute a Lease Agreement for \$1/year with the Portland Development Commission (PDC) for temporary use of a site owned by PDC as a temporary mass shelter. (Resolution)

WHEREAS, the City of Portland desires to site and construct a temporary mass shelter in the downtown area and, after a lengthy search of possible sites owned by governmental agencies, the City Council desires to pursue a site on land currently owned by the City of Portland, by and through the Portland Development Commission; and

WHEREAS, the site of 11,000 sq ft along N.W. 9th Avenue, including portions of Lots 1 through 4 on Block 219, Couch's Addition, appears to meet the major siting criteria for the shelter of 5,000 sq ft; and

WHEREAS, the site is currently vacant and available for temporary use for a mass shelter provided that such use shall be terminated not later than March 1, 1998; and the temporary mass shelter shall be removed within 30 days after the use is terminated; and

WHEREAS, the Bureau of General Services is hereby directed to enter into lease terms with the Portland Development Commission that provides for the development, operation, maintenance and security for the facility and surrounding area as well as the removal of the facility and restoration of the site within the time frame described above; and

WHEREAS, the Shelter Reconfiguration Plan calls for construction of a 90 person capacity facility that completes the system of both basic shelter and emergency and transitional housing. PDC is directed by a separate Resolution adopted this date to take the lead in developing siting options for this facility. The temporary mass shelter shall cease operation on March 1, 1998, or on the date the 90 person capacity facility is operational, if earlier;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Portland, a municipal corporation of the State of Oregon, that the Council authorizes the Bureau of General Services to negotiate and execute a Lease Agreement for \$1/year with the Portland Development Commission for a site on the Union Station property under the terms described herein, for the purpose of establishing a temporary mass shelter.

Adopted by the Council, JUL 12 1995
Commissioner Kafoury
Diana Lee Holuka:SGraham
July 12, 1995

BARBARA CLARK
Auditor of the City of Portland
By *Bette Olson*
Deputy

RESOLUTION No. 35421

Authorize and direct various City Bureaus to take specific actions relating to the development of a temporary mass shelter on the Union Station property.
(Resolution)

WHEREAS, the Strategies for Fair Housing, adopted as Ordinance No. 167189, in November 1993, removed barriers to siting special housing facilities, including mass shelters, throughout the City; and

WHEREAS, the Salvation Army's Recovery Inn closed July 1, 1995 and suitable services for homeless single men and women are not available to replace this loss as of this date, however, two new facilities, the Royal Palm and the Women's Facility at SE 11th and Couch, are expected to be completed and operational within the next 12-18 months; and

WHEREAS, the City Council adopted Agenda Item No. 1017 on June 21, 1995, a report approving a temporary mass shelter to be built on City-owned property at Block 219, lots 1-4 of Couch's Addition, on NW 9th Avenue; and

WHEREAS, the temporary mass shelter will be sited for a period not to extend beyond March 1, 1998; and

WHEREAS, the proposed temporary mass shelter will be located in the heart of the River District which has been targeted by the City Council as an emerging area for new, high density residential and commercial development, which is now underway and expected to continue over the next 15 or more years; and

WHEREAS, so as to minimize the impact of the proposed temporary mass shelter on surrounding development activity and to ensure that the facility will be fully dismantled and removed from the Union Station site by April 1, 1998, a series of commitments, terms and conditions relating to the financing, development and operation of the proposed facility are essential.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Portland, a municipal corporation of the State of Oregon, that the following actions shall be undertaken relating to the design, construction, operation and maintenance of the proposed temporary mass shelter on the Union Station property:

1. The Commissioner of Public Affairs is hereby authorized to work with the Multnomah County Board of Commissioners to negotiate an Operating Agreement and secure the funds necessary to cover all operating and maintenance expenses for the proposed temporary mass shelter as long as the temporary mass shelter is open, and report back to City Council within the next 120 days with information on how the temporary mass shelter operating and maintenance costs will be covered.

2. Notwithstanding the City Council's separate Resolution adopted this date authorizing the Bureau of General Services to negotiate and execute a Lease Agreement with the Portland Development Commission, the subject temporary mass shelter shall cease operation not later than March 1, 1998.
3. The proposed lease of the PDC property for the temporary mass shelter shall be for a limited term ending at midnight, March 1, 1998 and, by its terms, shall not be subject to renewal, reissuance or extension. The lease shall require that operation of the temporary mass shelter shall cease on the expiration of the lease term and that the temporary mass shelter shall be removed within 30 days after expiration of the lease term. The lease shall also designate the River District Association (Association) as an intended third-party beneficiary of, and with the right to enforce, the tenant's obligation to close and remove the temporary mass shelter consistent with the lease terms. The lease shall contain appropriate recitals giving rise to the Association's beneficial rights, including its forbearance in opposing the siting of the temporary mass shelter, and the intended use of the subject property for other purposes in the near future.

Notwithstanding anything in this section, PDC may sell, lease, sign or otherwise commit the subject site to a third-party while still occupied by the temporary mass shelter, subject to the lease with the City of Portland for the shelter.

4. Reauthorization of this temporary mass shelter and all related building and occupancy permits shall expire on March 1, 1998 consistent with the lease, and shall not be renewed, reissued or extended. As necessary, the Director of the Bureau of Buildings shall take all appropriate normal measures under PCC 3.30.15 to enforce the expiration of this temporary approval and related building and occupancy permits. The Director shall engage in such enforcement activities notwithstanding the separate enforcement rights of the Association under the lease.
5. PDC shall review the site and architectural design of the proposed facility at the preliminary and final design phases to insure compatibility with the surrounding area. PDC's review rights are to be applied within the context of the budget limitations established for the project in the time frame in which it is scheduled to be constructed.
6. The City shall be responsible for environmental testing of the site and shall pay all costs associated with any environmental remediation which may be necessitated during construction activities.

7. PDC and BGS shall establish an advisory committee to oversee the design, construction and on-going property management of the temporary mass shelter to address any problems which may arise and that are not adequately dealt with by the facility operator. Participation on the advisory committee shall include the Multnomah County Community Action Program Office, the facility operator, PDC, BGS, the Police Bureau, the River District Association, the Pearl District Neighborhood Association, and others as deemed appropriate. BGS shall establish the committee membership and coordinate the work of the committee during the facility's design and construction phases. PDC shall coordinate the work of the committee during its operation.
8. The lease between the City and PDC shall require that the Operating Agreement between the City and Multnomah County, for the proposed temporary mass shelter, include provisions which allow for the City and/or PDC to be reimbursed by the County for any direct actual expenses incurred by the City or PDC in providing maintenance, litter control or security services deemed necessary by the advisory committee to address problems which may be created by the temporary mass shelter and which are not adequately addressed by the County or the County's operator of the facility. The lease will also require the facility operator to comply with the Good Neighbor Plan which will be subsequently adopted.

ADOPTED by the Council, JUL 12 1995
Mayor Katz/Commissioner Kafoury
Sam Adams

BY

BARBARA CLARK
AUDITOR OF THE CITY OF PORTLAND

[Handwritten signature]

RESOLUTION No. 35422

Authorize and direct various City Bureaus to take specific actions to proceed with the development of permanent homeless facilities consistent with the adopted Shelter Reconfiguration Plan. (Resolution)

WHEREAS, the Strategies for Fair Housing, adopted as Ordinance No. 167189, in November 1993, removed barriers to siting special housing facilities, including mass shelters, throughout the City; and

WHEREAS, in December 1993, City Council adopted the Shelter Reconfiguration Plan; and

WHEREAS, the Salvation Army's Recovery Inn closed July 1, 1995 and suitable services for homeless single men and women are not available to replace this loss as of this date, however, two new facilities, the Royal Palm and the Women's Facility at SE 11th and Couch, are expected to be completed and operational within the next 12-18 months; and

WHEREAS, the City Council is committed to providing for the immediate needs of the homeless as well as ensuring that a long-term solution to the problem is found through the implementation of the Shelter Reconfiguration Plan, which envisions the eventual elimination of the need for mass shelters through their dispersal to smaller, specialized facilities as well as through the establishment of transitional housing; and

WHEREAS, the City Council further desires to proceed with all necessary actions to fund, site and develop permanent facilities for the homeless in alternate locations, outside of the River District.

NOW, THEREFORE, BE IT RESOLVED that the following independent actions shall be undertaken by the respective City Bureaus listed below to proceed with the development of permanent homeless facilities as called for in the adopted Shelter Reconfiguration Plan:

1. PDC is hereby designated as the lead agency to take responsibility for immediately developing siting options for a permanent facility, consistent with the adopted Shelter Reconfiguration Plan, as well as acquiring, on behalf of the City, the chosen site and managing the design and construction of that facility in coordination with the Bureau of General Services. Pursuant to the Shelter Reconfiguration Plan, that site is envisioned to be a 90-person capacity facility that completes the system of both basic shelter and emergency and transitional housing. As part of the design process, PDC will immediately convene a group of experts and community partners to determine how best to split the basic shelter and transitional housing functions outlined in the Shelter Reconfiguration Plan between the new facility and the Glisan Service Center, which currently functions as emergency and transitional housing.

2. The Office of Finance and Administration is hereby directed to develop finance options for funding the design and construction of a permanent facility, in accordance with the adopted Shelter Reconfiguration Plan. A preliminary finance strategy with options shall be submitted to Council within 90 days. A final finance plan is to be developed as part of the fiscal year 1996-98 budget process.
3. The Commissioner of Public Affairs is hereby authorized to request that the Multnomah County Board of Commissioners pass a Resolution of Intent agreeing to the long-term full funding of the operation and maintenance of the permanent facility or facilities once completed and opened by the City of Portland.
4. PDC is hereby authorized to negotiate, on behalf of the City of Portland, real estate options for possible consideration by City Council for potential locations for a permanent facility or facilities, outside of the River District.
5. PDC shall submit a detailed budget to the Office of Finance and Administration within 45 days estimating its costs associated with the process of siting the permanent facility and managing its design and construction. The Office of Finance and Administration shall incorporate those costs into its overall finance plan for the project.

ADOPTED by the Council, JUL 12 1995

Mayor Katz/Commissioner Kafoury

Sam Adams

July 12, 1995

c:\wpw\ndtwn\ord-res\perm-shl.res

BY

BARBARA CLARK
AUDITOR OF THE CITY OF PORTLAND

Barbara Clark

DEPUTY

SCHEDULE A

Hazardous Substances

EXHIBIT C

LEASE ASSIGNMENT AND CONSENT

The City of Portland is the lessee for premises located at Couch's Addition, Block 219, Multnomah County, generally known as 1212 NW 9th Avenue, Portland, Oregon. The lease was signed August 15, 1995, and is for approximately 11,000 square feet for a nominal rental fee of \$1.00. This lease is attached as Exhibit A and by this attachment incorporated herein.

By this amendment effective _____, 19____, the Portland Development Commission consents to the assignment of the lease from the Bureau of General Services of the City of Portland to Multnomah County, a political subdivision of the State of Oregon. Multnomah County agrees to accept all title, rights and interest in the lease.

In consideration of such amendment, Multnomah County assumes and agrees to perform and comply with, on and after _____, 19____ all of the covenants, conditions, rights and obligations of the lease.

In any other event, this assignment is irrevocable and unless and until a breach occurs, Multnomah County will hold the lease as if it were primary signatory thereto.

Any notice given shall be in writing and delivered to the addresses noted immediately below the undersigned signatures.

IN WITNESS WHEREOF, the parties have executed this Assignment and Consent in triplicate on the day and year first herein written.

Date

David O. Kish, Director
Bureau of General Services
1120 SW 5th Avenue, Room 1204 823-5252
Portland, Oregon 97204

APPROVED AS TO FORM

Deputy City Attorney

Date

For Multnomah County

Beverly Stein Multnomah County Chair

Typed name and title

Multnomah County

1120 SW Fifth

Portland OR 97204

Address for notification

248-3308

Telephone

APPROVED AS-TO FORM

Multnomah County Counsel

PORTLAND DEVELOPMENT COMMISSION

Jan Bureson, Executive Director

1120 S. W. 5th Avenue, #1100

Portland, Oregon 97204

503-823-3200

APPROVED AS TO FORM

Legal Counsel, Portland Development Commission

GOOD NEIGHBOR AGREEMENT

This Good Neighbor Agreement was developed between Multnomah County Community Action Program Office (County/Operator of a temporary shelter for homeless), the City of Portland Bureau of Housing and Community Development (BHCD), The Housing and community development commission (HCDC), the City of Portland Bureau of General Services (BGS), the Portland Development Commission (PDC), the Pearl District Neighborhood Association, the River District Association, Amtrak, the Portland Police Bureau (PPB), and the Sisters of the Road Cafe at 1212 NW Ninth Avenue in Block 219, Lots 1-4 of Couch's Addition in Portland, Oregon (Premises).

1.0 Temporary Shelter Advisory Committee:

Pursuant to City Council Resolution 35419, the Portland Development Commission and the Bureau of General Services will establish an Advisory Committee ("Advisory Committee") to oversee the design, construction and on-going property management of the temporary mass shelter to address any problems which may arise and that are not adequately dealt with by the facility operator.

Participation on the Advisory Committee will include the PDC, the County, the shelter operator ("Operator"), BGS, BHCD, the Portland Police Bureau, representatives from affected neighborhood associations and businesses, a member of a homeless committee, and other affected neighbors. The Committee will work to resolve any unforeseen problems which may arise from operation of the Shelter.

The Advisory Committee will meet monthly during the first 6 months of Shelter operation. After 6 months the Advisory Committee will hold a public meeting at the Pearl District Neighborhood Association's monthly meeting to evaluate the operation of the Shelter and the implementation of the Good Neighbor Plan. This meeting will include members of the Advisory Committee, and a representative from the Shelter operator and the County Intake/Assessment Center. Those living or working near the Shelter will be invited to attend this meeting.

After the 6 month evaluation the Advisory Committee will determine how frequently it will meet in the future.

2.0 Communication:

The Advisory Committee will maintain a current phone list that will include the key contacts for

the Operator, the County Assessment Center, and the Portland Police Bureau. This list will be used to control rumors, disseminate information quickly and enable the Advisory Committee members, the public and the shelter operator to contact the appropriate people when issues or concerns arise. The Advisory Committee will identify neighborhood businesses and neighbors for distribution of a shelter contact list. The Neighborhood Association will make copies of this contact list available at its meetings.

The operator will issue a monthly written performance report to the Advisory Committee. This report will include information gathered from critical incident logs or complaint calls received. The report will also include any incidents, issue or complaints that arise for the residents or Operator.

The Operator and Assessment Center will agree to include a copy of the Good Neighbor Agreement in employee new hire packets; all employees will be expected to comply with this Good Neighbor Agreement.

3.0 Safety, Health, Security and Rules:

Residents entering the Shelter will receive information, both written and verbal, regarding the shelter's rules and regulations. All residents will be required to sign an agreement to abide by these rules and regulations.

Shelter residents will be encouraged to travel between the shelter and associated service agencies in Old Town along the preferred route of Hoyt/9th Ave. Residents will be discouraged from walking along Amtrak rail tracks and through Union Station property. The printed information packet will include a map indicating the preferred route, the location of meal sites in relation to the shelter, the fareless square boundaries and bus routes which run near the shelter.

BGS will maintain a contingency budget for erection of fencing to restrict access through PDC property should the committee decide there is evidence that routes other than the preferred route are being used by residents to the detriment of the surrounding neighborhood.

The information packet will also include information about the neighboring horses. All residents will be asked to cooperate with PPB concerns for the safety of the horses in the Mounted Patrol Horse Barn next door to the Shelter. Residents will be instructed not to feed or touch the horses. Shelter staff and assessment center staff will work with the PPB to ensure Shelter residents understand the reasons behind the restrictions on feeding or touching the horses.

No violence or criminal activity of any type will be tolerated on Shelter property. No use of alcohol or drugs in or around the Shelter will be allowed. "In or around" is defined as the immediate area: both sides of the street in front of the shelter, within the fenced area around the Shelter and within the Shelter building. Violators will be asked to leave the Shelter.

4.0 Loiter control:

The Shelter will be open for admission 24 hours a day (until full) in order to eliminate client queuing on the sidewalk outside the entrance. No departure and re-entry will occur after 9 p.m.. Admissions after 9 p.m. will be based upon criteria developed by the operator and reviewed by the Advisory Committee.

Residents will be instructed to remain on the premises (within the fenced area around the Shelter). Smoking will be allowed outside the building in two designated areas: the open table area on the north side of the building (day time hours) and the covered porch on the south side of the building (evening hours).

The shelter will respond to complaints about loitering in the vacant lot adjacent to the shelter and will ask residents not to loiter in this area (see attached map).

5.0 Litter:

The Shelter shall keep the premises (the Shelter building and the fenced area around the shelter) free of litter and graffiti and will respond to complaints about litter in the lot adjacent to the shelter and will ask clients not to litter (see attached map). The Shelter will remove graffiti from its exterior as soon as possible after its appearance. If catered meals are to be delivered to the Shelter they will be dispensed and consumed inside.

6.0 Crime Prevention:

The Shelter will establish and maintain an exclusion list that names the inappropriate behavior(s), the names of persons involved and the duration of the exclusion. The County/Operator will participate in a partnership trespass agreement with the Portland Police Bureau to insure that those who violate their exclusion order will be subject to arrest if the the Portland Police have been notified.

The Shelter operator, the Assessment Center staff and interested Advisory Committee members will work with the crime prevention staff from the Office of Neighborhood associations and the Community Policing liaison to develop a crime prevention training program for staff and clients.

The Operator will have in place written comprehensive security policies and procedures for the Shelter with special emphasis on entering and exiting the shelter, exterior security and policies and procedures that will inhibit loitering, public drunkenness, drug trafficking, weapons and criminal activity. These policies and procedures will be reviewed by the Advisory Committee.

The Operator will maintain the exterior security lighting (this will include 6 overhead can lights in the smoking porch, 2 overhead can lights at the entrance, 2 flood lights on the north and south

Signatories

Name

Date

Amtrak

Anthony R. Buscemi SERVICE MANAGER 12-13-95
ANTHONY BUSCEMI

Bureau of Housing
and Community Development

Richard Silverman

Bureau of General Services

Kenn Kravus 11-27-95

Housing and Community
Development Commission

Margie Elle 11-27-95

Multnomah County
Community Action Program Office

Ronald A. Zin

Pearl District Neighborhood
Association

[Signature] TREASURER
[Signature]

River District Association

[Signature]

Portland Police Bureau

Portland Development
Commission

[Signature]

Sisters of the Road/
Visions in Action

Genevieve Nelson

#1

PLEASE PRINT LEGIBLY!

MEETING DATE

8/15/96

NAME

Q Hillmer

ADDRESS

7327 N. Kellogg

STREET

PDX

OR

97203

CITY

ZIP

I WISH TO SPEAK ON AGENDA ITEM NO.

R-1

SUPPORT

OPPOSE

SUBMIT TO BOARD CLERK

#2

PLEASE PRINT LEGIBLY!

MEETING DATE 15 Aug '96

NAME

Jeff McMahon

ADDRESS

7327 N. Kellogg St.

STREET

Portland OR

97203

CITY

ZIP

N. Portland
Health Center
Location.

I WISH TO SPEAK ON AGENDA ITEM NO.

SUPPORT

OPPOSE

SUBMIT TO BOARD CLERK

21

#3

PLEASE PRINT LEGIBLY!

MEETING DATE 8-15/96

NAME

Sherry Dahlen

ADDRESS

6700 N. Syracuse

STREET

Porter 97203

CITY

ZIP

I WISH TO SPEAK ON AGENDA ITEM NO.

R-1

SUPPORT

OPPOSE

SUBMIT TO BOARD CLERK

#4

PLEASE PRINT LEGIBLY!

MEETING DATE 8-15-96

NAME

ADDRESS

STREET

CITY

ZIP

I WISH TO SPEAK ON AGENDA ITEM NO.

SUPPORT

OPPOSE

SUBMIT TO BOARD CLERK

Quanna Roberts
19390 NE Mult Ct
PKA
97230

R-1

EMILY SIMON

620 S.W. FIFTH SUITE 1204
PORTLAND, OREGON 97204
FAX 503 241-2587

ATTORNEY AT LAW

503 241-1553

GEORGE WILLIAMS
ATTORNEY AT LAW

September 6, 1995

BY HAND DELIVERY

Jean DeMaster
Adult Foster Care Home Program
421 SW Fifth Avenue
Room 405
Portland, Oregon 97204-2221

Re: Dianna Roberts and Rosewood Foster Care

Dear Ms. DeMaster:

Pursuant to the agency's administrative rules, we are requesting a formal hearing on the allegations raised in your August 18, 1995 letter to Ms. Roberts. We request a hearing to contest the allegations in the complaints referred to in the agency's August 18th letter.

We hereby waive the ten-day notice requirement under Multnomah County Licensing Ordinance 8.90.090(B).

We are requesting a formal hearing to preserve Ms. Roberts' due process rights; however, we believe this matter can be better resolved without a hearing and are therefore requesting a conference with you, as is also suggested in your August 18, 1995 letter. We have a proposal to present to the agency which we think will resolve this matter to the satisfaction of all concerned parties and would like to meet with you to discuss it as soon as possible. We are available to meet with you during the afternoon of September 8, all day on September 11, the afternoon of September 12, and anytime on September 13 through 15.

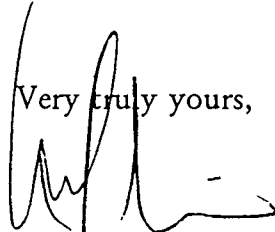
Also, I understand that county employees have gone to my client's home and are copying documents. Please be advised that this is unnecessary. If there are any additional documents that you would like to review, please let me know and we will gladly provide them.

(1)

page 2

Thank you for your kind attention and consideration in this matter. Please do not hesitate to call my office to schedule a meeting at your earliest convenience, or if you have any questions or concerns about this matter.

Very truly yours,



Emily Simon
Attorney at Law

ES:lbw

cc: client

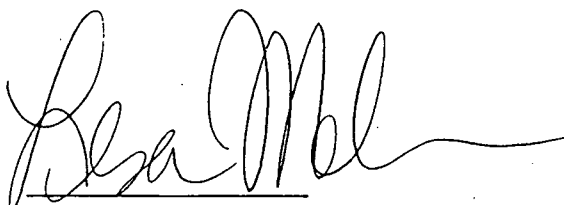
demaster.ltr

(2)

CERTIFICATE OF SERVICE

I hereby certify that I have made service of the foregoing letter on Jean DeMaster of the Adult Foster Care Home Program by hand delivery on September 6, 1995, a certified true, exact and full copy thereof addressed to her at her regular office address to-wit:

Jean DeMaster
Adult Foster Care Home Program
421 SW Fifth Avenue
Room 405
Portland, Oregon 97204-2221



LESA WOLMAN

NEWTON, COTTLE & WESTENHAVER, P.C.

ATTORNEYS AT LAW
4000 KRUSE WAY PLACE, BLDG 1, SUITE 265
LAKE OSWEGO, OREGON 97035
(503) 697-7272

MARK O. COTTLE
GREGORY C. NEWTON*
DANA A. WESTENHAVER

FAX (503) 636-6995
*ALSO ADMITTED IN CALIFORNIA

October 20, 1995

Multnomah County
Aging Services/Adult Homes
Gene DeMaster
421 SW 5th Room 405
Portland, OR 97204-2221

RE: *Dianna Roberts @ 19390 N.E. Multnomah Ct.*

Dear Ms. DeMaster:

My above named client requests a hearing on the issues presented in your issuance of your last temporary sanction against my client accepting new residents. My client also would like an informal conference in order to resolve the problems. Lets schedule that right away.

Thank you for your time.

Very truly yours,

Mark O. Cottle

(10)

JAMES C. NIEDERMAYER

ATTORNEY AT LAW
2100 S.E. BELMONT STREET
PORTLAND, OREGON 97214

PHONE (503) 233-8550
FAX (503) 233-8560

P.O. BOX 4078
PORTLAND, OREGON 97208

October 26, 1995

HAND DELIVERY

Supervisor
Adult Care Home Program
Aging Services Division
Multnomah County
421 S.W. Fifth Ave., Room 405
Portland, OR 97204

Re: Dianna Roberts
Communication Dated 10/13/95 from Jean DeMaster
Concerning Suspension (Copy Enclosed)

Dear Supervisor:

In accordance with the authorization below, request
is made for a conference as well as a hearing in regard
to the above matter. >

Very truly yours,

James C. Niedermeyer

JCN:mc

Encl.

cc w/encl.: Catherine Gaetjens, County Counsel

IT IS SO AUTHORIZED.

Dianna Roberts

(11)

JAMES C. NIEDERMEYER

ATTORNEY AT LAW

2100 S.E. BELMONT STREET

PORTLAND, OREGON 97214

PHONE (503) 233-8550

FAX (503) 233-8560

P.O. BOX 4078

PORTLAND, OREGON 97208

November 17, 1995

HAND DELIVERY

Supervisor
Adult Care Home Program
Aging Services Division
Multnomah County
421 S.W. Fifth Ave., Room 405
Portland, OR 97204

Re: Dianna Roberts
Communication Dated 11/09/95 from Jean DeMaster
(Copy Enclosed)

Dear Supervisor:

In accordance with the authorization below, request
is made for a conference as well as a hearing in regard
to the above matter. >

Very truly yours,

James C. Niedermeyer

JCN:mc

Encl.

cc w/encl.: Catherine Gaetjens, County Counsel

APPROVED:

Dianna Roberts

(13)

NEWTON, COTTLE & WESTENHAVER, P.C.

ATTORNEYS AT LAW
4000 KRUSE WAY PLACE, BLDG 1, SUITE 265
LAKE OSWEGO, OREGON 97035
(503) 697-7272

MARK O. COTTLE
GREGORY C. NEWTON*
DANA A. WESTENHAVER

FAX (503) 636-6995
*ALSO ADMITTED IN CALIFORNIA

September 18, 1995

VIA FACSIMILE 306-5722

Multnomah County
Aging Services/Adult Homes
Gene DeMaster
421 SW 5th Room 405
Portland, OR 97204-2221

RE: *Dianna Roberts @ 19390 N.E. Multnomah Ct.*

Dear Ms. DeMaster:

My above named client requests a hearing on the issues presented in your issuance of a temporary sanction, September 15, 1995 letter, against my client accepting new residents.

My client requests a complete copy of her file. Once it is ready, please contact me and will arrange for payment of the copy costs and have it picked up.

Very truly yours,

Mark O. Cottle

Jean, as of October 5, 1995, I have not received the complete file of Ms. Roberts. I have her public disclosure file, but I need the complete file. When will it be ready to be picked up?

(4)

- 080-330 An administrative conference shall be scheduled as soon as possible and no later than ten (10) days from a request for such a meeting. *
- 080-340 The purpose of an administrative conference is to review the sanction and/or the deficiencies and violations cited, and to provide information to the operator which can assist in achieving satisfactory compliance within required time limits.
- 080-350 The request for an administrative conference shall not extend the effective date for an administrative sanction or any previously established time limits, unless requested by the operator and granted by the Director. The conference may be scheduled after the effective date of an administrative sanction.
- 080-360 The operator shall be responsible for certifying compliance with the requirements of the administrative sanction(s), on a compliance form provided by the Department, no later than the date specified in the notice of sanction unless an extension has been requested by the operator and granted by the Director.
- 080-370 The Department may conduct a reinspection of the home or a reinterview(s) following receipt of an operator's certification of compliance, or otherwise after the date specified in the notice of administrative sanction by which deficiencies were to be corrected and violations abated.
- 080-380 When relocation of any or all residents or refund of any monies due is ordered by the Director or a final order, such relocation and/or refund(s) shall be accomplished no later than 30 days from the effective date of the order, or sooner if so specified.
- 080-390 Under authority of MCC 8.90.030, the Department may seek a court order for injunctive relief to enforce the Director's order or a final order if it is not implemented within the time limits established by the Director or the final order.
- 890-080-400 Attorney Fees
- In actions brought to enforce the Multnomah County Adult Care Homes Licensure Ordinance or these rules either through a contested hearing or litigation, the Department is entitled to reasonable attorney fees, at trial, hearing, or on appeal, and costs if it prevails.
- 890-090-100 Operator Hearing Rights Refer to MCC 8.90.090 (A) and (B)
- 090-110 The Department shall notify an operator of his or her right to appeal the decision or order of the Director, and the procedure for requesting a hearing, in providing notification of the Department's action.

TEL :

Apr 19 96 16:06 No.004 P.02

MULTNOMAH COUNTY ADMINISTRATIVE HEARING
FOR THE COUNTY OF MULTNOMAH

In the Matter of	)	NO. <u>161035</u>
Dianna Roberts')	
Adult Care Home License	)	Motion To Strike
Revocation	)	Witness List
)	
)	

Multnomah County Department of Aging Services, by and through it's attorney, Katie Gaetjens, moves the hearing officer in the above captioned matter to strike the witness list submitted by Dianna Roberts on April 19th, 1996, in it's entirety with the exception of the four witnesses previously submitted by Ms. Roberts. This motion is requested for the following reasons.

Ms. Roberts' requested witness list represents an abuse of process. Ms. Roberts, in this morning's hearing indicated she wished to add some additional witnesses to her original witness list. Even this request is without merit because it has been two weeks since the county rested its case and three weeks since the parties exchanged witness lists. Ms. Roberts was aware of all of the county's testimony on April 5th, 1996. Since that time the hearings officer has struck a portion of the county's case. Consequently, Ms. Roberts at this time, should need fewer, rather than additional witnesses.

Instead, Ms. Roberts has submitted a list which includes 57 additional witnesses. Clearly the presentation of that many witnesses would take many days, if not weeks.

completion of this hearing, her witness list is just one more attempt to delay. Such stalling and delay cannot be tolerated in a situation where the safety and welfare of frail, elderly people is at stake.

In addition, a review of her proposed witness list indicates that at least 14 of the proposed witnesses are county employees or contract employees, who are unlikely to add to her case in any way. Moreover, the list includes the lead counsel, certified law clerk, and program staff person who have presented the county's case. The inclusion of county personnel can only be for the purpose of harassment.

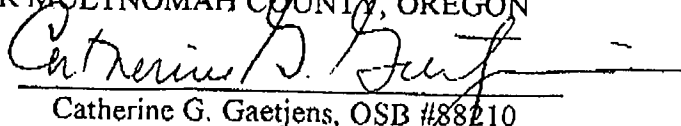
Ms. Roberts' due process rights have been fully observed in this hearing. Ms. Roberts received notice of the complaints at issue in this hearing on November 28, 1995. The hearing began March 28, 1996, four months later. Ms. Roberts does not need and is not entitled to more time. Consequently, we ask the hearings officer to strike her witness list as an abuse of process.

DATED this 19th day of April, 1996.

Respectfully submitted,

LAURENCE KRESSEL, COUNTY COUNSEL
FOR MULTNOMAH COUNTY, OREGON

By:



Catherine G. Gaetjens, OSB #88210

Assistant County Counsel

Of Attorneys for the Department of Aging Services.

#4

PLEASE PRINT LEGIBLY!

MEETING DATE 8/15/96

NAME

Jim Hillas

ADDRESS

Dunn Carney et al

STREET

851^{SW} 6th Ste 1500 Portland

CITY

ZIP

I WISH TO SPEAK ON AGENDA ITEM NO. R-2

SUPPORT ☒ **OPPOSE** ☐

SUBMIT TO BOARD CLERK

* Support Robert's request for continuation

#2

PLEASE PRINT LEGIBLY!

MEETING DATE 8-15-96

NAME

ADDRESS

Shanni Roberts
19300 NE 24th Ct

STREET

PH OK

CITY **ZIP**

I WISH TO SPEAK ON AGENDA ITEM NO. R-2

SUPPORT _____ **OPPOSE** _____

SUBMIT TO BOARD CLERK

#3

PLEASE PRINT LEGIBLY!

MEETING DATE 8/15/96

NAME

Linda Shelton

ADDRESS

19715 NE HASSALO CT.

STREET

PORTLAND. OR

CITY

97230

ZIP

I WISH TO SPEAK ON AGENDA ITEM NO.

R-2

SUPPORT

OPPOSE

SUBMIT TO BOARD CLERK

PLEASE PRINT LEGIBLY!

✓ Video
DID NOT SHOW

MEETING DATE

8-15-96

NAME

ADDRESS

Robert Floyd Walters
1565 SE 65

STREET

PLAT ON

CITY

ZIP

I WISH TO SPEAK ON AGENDA ITEM NO.

R-2

SUPPORT

OPPOSE

SUBMIT TO BOARD CLERK

MEETING DATE: August 15, 1996

AGENDA #: R-2

ESTIMATED START TIME: 9:30 AM

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: Dianna Roberts Appeal of Hearings Officer Decision on Adult Care Home License

BOARD BRIEFING:

DATE REQUESTED: _____

REQUESTED BY: _____

AMOUNT OF TIME NEEDED: _____

REGULAR MEETING:

DATE REQUESTED: Thursday, August 15, 1996

AMOUNT OF TIME NEEDED: 10 Minutes

DEPARTMENT: Non-Departmental

DIVISION: Chair Beverly Stein

CONTACT: City Atty. Peter Kasting

TELEPHONE #: 823-4047

BLDG/ROOM #: 131/315

PERSON(S) MAKING PRESENTATION: Pete Kasting, Dianna Roberts, Katie Gaetjens

ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☐ APPROVAL ☒ OTHER

SUGGESTED AGENDA TITLE:

Board Decision and Consideration of an ORDER Regarding the Appeal of Dianna Roberts from the Hearings Officer Decision on an Adult Care Home License. **OPTION 1** Schedule a Hearing to Accept Evidence or Argument on this Appeal; OR **OPTION 2** Decide this Appeal on the Record that has Already Been Created. MCC Section 8.90.090 (J) and Section 890-90-450 of the Administrative Rules for Licensure of Adult Care Homes Give the Board Discretion to Follow Either Course.

8/16/96 copies of order to Pete Kasting, Dianna Roberts, Katie Gaetjens, SIGNATURES REQUIRED: Mary Fassel, Darla Roberts

ELECTED

OFFICIAL: _____

(OR)

DEPARTMENT

MANAGER: _____

Beverly Stein

BOARD OF
COUNTY COMMISSIONERS
MULTNOMAH COUNTY
OREGON
96 AUG - 6 AM 11:00

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Office of the Board Clerk 248-3277 or 248-5222

* Complete copy of AGENDA packet
mailed 8/7/96
Wes Bogstad

Stick postage stamps to article to cover First-Class postage, certified mail fee, and charges for any selected optional services (See front).

1. If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached, and present the article at a post office service window or hand it to your rural carrier (*no extra charge*).
2. If you do not want this receipt postmarked, stick the gummed stub to the right of the return address of the article, date, detach, and retain the receipt, and mail the article.
3. If you want a return receipt, write the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed ends if space permits. Otherwise, affix to back of article. Endorse front of article **RETURN RECEIPT REQUESTED** adjacent to the number.
4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse **RESTRICTED DELIVERY** on the front of the article.
5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.
6. Save this receipt and present it if you make an inquiry.

P 335 736 069

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No Insurance Coverage Provided.

Do not use for International Mail (*See reverse*)

Sent to

Dianna J. Roberts

Street & Number

19390 NE Multnomah Court

Post Office, State, & ZIP Code

Portland, Oregon 97230

Postage

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Whom & Date Delivered

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Date, & Addressee's Address

TOTAL Postage & Fees

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Postmark or Date

8/7/96

PS Form 3800, April 1995

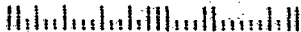
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**MULTNOMAH COUNTY
OFFICE OF THE BOARD CLERK
SUITE 1510, PORTLAND BUILDING
1120 S.W. FIFTH AVENUE
PORTLAND, OR 97204**



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- Complete items 3, 4a, and 4b.
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Consult postmaster for fee.

3. Article Addressed to:

Ms. Dianna J. Roberts
 19390 NE Multnomah Court
 Portland, Oregon 97230

4a. Article Number

P 335 736 069

4b. Service Type

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☐ Express Mail ☐ Insured
☒ Return Receipt for Merchandise ☐ COD

7. Date of Delivery

8-8-96

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6. Signature: (Addressee or Agent)

X Cheryl M Banks

July 2, 1996

Deborah L. Bogstad
Office of the Board Clerk
Multnomah County Commissioners
Suite 1510
1120 S.W. 5th Ave.
Portland, OR 97204

CERTIFIED MAIL
RRR - P 354 579 023

BOARD OF
COUNTY COMMISSIONERS
MULTNOMAH COUNTY
OREGON
96 JUL - 8 AM 8:24

RE: DIANNA J. ROBERTS ACH LICENSE REVOCATION APPEAL # 161035
REQUEST FOR REVIEW OF HEARINGS OFFICER'S DECISION

By way of this letter I am requesting a review of Mr. William W. Shatzer's Order and Determination dated June 14, 1996 regarding the revocation of my Adult Care Home License.

I am requesting a NEW Hearing before an unbiased Code Hearings Officer:

- 1) Due to the extreme prejudice evidenced by Mr. Shatzer's tone, mannerisms, and body language.
- 2) Failure to schedule a prehearing conference to inform defendant of Code Office Appeal Hearings procedures, i.e., disclosure procedures, witness list requirements, subpoena procedures.
- 3) Rulings on motions, failure to rule on motions.
- 4) **Failure to remand to ASD once clear and unequivocal evidence was presented that ASD had not complied with its their own governing statutes, i.e., regarding conferences requested within the time frame outlined in the MCAR's.**
- 5) Failure to respect defendant's physician's orders.
- 6) Failure to respond to defendant's request that hearing be adjourned until the following day due to defendant's frail physical conditions, while under doctor's written orders not to even be participating in a 'formal hearing', (and, subsequent order to continue with hearing).
- 7) Plus, numerous other procedural errors.

Constitutional Violations:

- 1) 1st Amendment Right to allow video taping of my hearing by a member of the press.
Reference: Public Meetings Law - ORS 192.610 through ORS 192.690.
- 2) 6th Amendment Right to Assistance of Counsel, i.e., Terry Lee and a later request to retain an attorney.

Deborah Bogstad, Board Clerk

July 3, 1996

Page 3 of 5

- to the introduction of evidence and, if so, what kind of objections may be made, and an explanation of the burdens of proof or burdens of going forward with the evidence; and
- 2) Whether the party may request a recess in the proceedings if the party determines that representation by an attorney is necessary to the protection of the party's rights. (A recess was, in fact, requested, and denied.)

Violation of ORS 183.413 (1): Failure to "fully inform" parties of "their rights and remedies with respect to actions taken by state agencies."

This failure affected defendants right to call witnesses from her 'real' witness list -- not the one prepared in two (2) minutes in the hearings room (had defendant been informed this list was not amendable; but, in fact, sealed in concrete, defendant would have asked for time to prepare one); reference: Katie Gaetjens motion to strike defendants witness list -- why would Katie want to suppress defendant's witnesses -- why would Katie not want Mr. Shatzer to hear these witnesses -- why would she not call **key** witnesses on ASD's original witness list, i.e., Jean DeMaster, Heather Stewart, Mary M. Fassell?

The only viable reason Katie Gaetjens would need to suppress witnesses, would be to cover up the violations of the Aging Services Division, i.e., photocopies of confidential medical records copied by Mary M. Fassell without written permission as required by Oregon State Law were presented into evidence by ASD and allowed by Mr. Shatzer. (Apparently, the primary reason Katie Gaetjens was required to sit through this hearing and be 'on the record' as representing the ACHP; although Mary M. Fassell still remained the prosecuting attorney, in actuality, as Katie acted only as a bystander and coach to Mary.)

A hearing is for parties to be heard -- and what Mr. Shatzer is under contract to do, a contract, in fact, which Katie signed also! A recess was requested by the defendant to obtain representation by an attorney and denied by Mr. Shatzer! (Further indication of the extreme prejudice demonstrated throughout the appeal hearing by Mr. Shatzer!)

Other issues of argument:

- a) Witnesses were allowed in the hearing room against the objection of the defendant. This allowed for the witnesses to hone their testimony according to previous testimonies.

Deborah Bogstad, Board Clerk

July 2, 1996

Page 2 of 5

- 3) 14th Amendment Right to equal protection of the laws. (Only allowed 1 week to prepare Closing Argument -- ref: letter dated May 27, 1996.)

Violation of ORS 183.413 (2): Failure of ASD to notify defendant of statutory notice of rights in this contested case, either orally or in writing of the following:

- 1) Whether a record will be made of the proceedings;
- 2) The manner of making the record;
- 3) Whether the record will be available to the parties;
- 4) The function of the record-making with respect to the perpetuation of the testimony and evidence;
- 5) The function of the record-making with respect to any appeal from the determination or order of the agency;
- 6) Whether an attorney will represent the agency in the case;
- 7) Whether parties ordinarily and customarily are represented by attorneys;
- 8) The title and function of the person presiding at the hearing;
- 9) The manner in which the testimony and evidence taken by the person presiding at the hearing are reviewed;
- 10) The effect of any determination by the person presiding at the hearing.
- 11) What person or group makes the final determination on behalf of the agency;
- 12) Whether the person presiding at the hearing is or is not an employee, officer or other representative of the agency;
- 13) Whether the person presiding at the hearing has the authority to make a final independent determination;
- 14) Whether there exists an opportunity for an adjournment to gather and present additional evidence;
- 15) Whether there exists an opportunity after the hearing and before the final determination or order to object to any proposed findings of fact, conclusions of law, summary of evidence, or recommendations of the officer presiding at the hearings; and,
- 16) A description of the appeal process from the determination or order of the agency;

In addition, in that defendant was not represented by an attorney, defendant was required to be informed, either orally or in writing of the following; however, was not:

- 1) Of a general description of the hearing procedure including: the order of presentation of evidence; what kinds of evidence are admissible; whether objections may be made

Deborah Bogstad, Court Clerk

July 2, 1996

Page 4 of 5

- b) Mr. Shatzer limited the testimony of the defendant to **ONLY 8 HOURS!**
- c) Mr. Shatzer refused to accept documents presented for evidence by the defendant, even when requested that they be accepted just 'for the record'.
- d) Official Code Hearing Office record of this appeal hearing is incomplete. The first 15 minutes of the hearings appears to have been taped over, intentionally, to cover up the discussion over allowing the hearing to be videotaped by the press.
- e) **Evidence of Mary M. Fassell cutting, splicing, and editing out sections of a taped conference in the ACHP's office, was not allowed to be introduced on the record, or otherwise. (Affidavits of attendees, or of the tapes themselves -- further suppressed evidence of violations by the Aging Services Division.)**
- f) Motion presented on May 27, 1996 was not ruled on or responded to. This motion was presented prior to the Closing Arguments being presented on May 28, 1996. This motion was lengthy (approx. 8-10 pages -- copy attached). Due to the seriousness of the motion, i.e., that Mr. Shatzer disqualify himself for reasons noted above as well as conspiracy allegations (a federal offense), this motion needs to be addressed -- not washed under the carpet.

Further reason for review, Katie Gaetjen's, Closing Arguments were laced with misrepresentations and innuendoes not substantiated by actual testimony presented during the hearing.

In that the burden of proof lies with the Aging Services Division, based upon the actual evidence presented, the evidence is insufficient to merit revocation of Dianna Roberts adult care home license.

In closing, Dianna Roberts' position is that irreparable injury/financial has occurred by sanctions placed on her home by the ACHP. To avert further injury, and to enable her to continue operation of her Adult Care Home, which is, currently, still providing care to her long term elderly residents whose life, health, safety and welfare would be jeopardized, **IF** they were forced to relocate, **AND** whose families have contested previous attempts by the ACHP to force relocation in writing by way of exercising their Residents' Rights of Appeal (Note: MCAR 890-090-200, specifically, 890-090-280), defendant request an exception or stay of previous sanctions placed on her home by the ACHP with regard to acceptance of new residents, until review by the Multnomah County Commissioners, review of Mr. William W. Shatzer's conduct before the Oregon Government Ethics Commission, **AND** all further appeal rights have been exhausted by the defendant.

Deborah Bogstad, Board Clerk
July 2, 1996
Page 5 of 5

Respectfully,

ROSEWOOD CARE, INC. (Est'd. 1985)

A handwritten signature in dark ink, appearing to read 'DJ Roberts', with a long horizontal flourish extending to the right.

Dianna J. Roberts
Owner/Opertor

Attachment (1) Motion dated May 27, 1996

cc: William W. Shatzer
Katie Gaetjens
Jim McConnell
Carol Rex
Multnomah County Commissioners
Pete Kasting
Lawrence Kressel
Jean DeMaster
Robert F. Blackmore, Dunn Carney Allen Higgins & Tongue

CERTIFICATE OF SERVICE

I, hereby, certify that on the 2nd day of July, 1996, I have made service of the foregoing letter on Deborah Bogstad, Board Clerk of the Multnomah County Commissioners, by CERTIFIED MAIL to her regular office address to-wit:

Deborah Bogstad, Board Clerk
Multnomah County Commissioners
1120 S.W. 5th Ave.
Rm. 1510
Portland, OR 97204

cc: Wm. W. Shatzer
Code Hearings Officer
1120 S.W. 5th, Rm. 1017
Portland, OR 97204

FAX: 823-4347

Catherine Gaetjens, Sr. Asst. County Counsel
Multnomah County Oregon
1120 S.W. 5th Ave., Suite 1530
Portland, OR 97204

FAX 248-3377



Dianna J. Roberts, Defendant
19390 N.E. Multnomah Ct.
Portland, OR 97230

BOARD OF
COUNTY COMMISSIONERS
96 JUL -8 AM 8:24
MULTNOMAH COUNTY
OREGON

MULTNOMAH COUNTY ADMINISTRATIVE HEARING
FOR THE COUNTY OF MULTNOMAH
STATE OF OREGON

In the Matter of Dianna Roberts' Adult)	
Care Home License Revocation)	
	)	APPEAL HEARING # 161035
Adult Care Home Program)	
Multnomah County Oregon)	
Aging Services Division, Plaintiff	)	<u>SECOND MOTION</u>
)	
vs.	)	FOR HEARINGS OFFICER
)	
Dianna J. Roberts, Defendant	)	TO DISQUALIFY SELF
)	
)	

On this day the 27 day of May 1996, Defendant moves the Code Hearings Officer to disqualify himself in the above matter for the reasons indicated on the following pages:

Defendant moves for Wm. W. Shatzer, City of Portland Code Hearings Officer to disqualify himself from further involvement in the Appeal Hearing #161035 of Dianna Roberts vs. Multnomah County Adult Care Home Program of Aging Services Division. Mr. Shatzer has demonstrated extreme prejudice continuously throughout the subject appeal hearing. Defendant alleges a conspiracy exist between Wm. W. Shatzer and the Aging Services Division through Mary M. Fassell and Catherine Gaetjens.

Mary M. Fassell restricted admissions to the Defendants home on August 18, 1995. This was long before any complaints submitted into evidence for exhibit or included with the November 28, 1995 Letter of Revocation were substantiated. None of the complaints submitted would have existed were it not for Mary Fassell's refusal to grant the Defendant's request for a qualified geriatric psychiatric nurse. The reasoning behind this refusal stem from the 1992 letter of apology the defendant received from Mr. Stephen Balog at the time Mary Fassell threatened to fine the Defendant \$1,000.00 for being uncooperative simply for requesting that a request be made in writing.

The Adult Care Home Program removed the Defendant from the Registry of Adult Care Homes in December, 1995 and further correspondence between The Adult Care Home Program and the Defendant ceased. Referrals to her home were discontinued early in 1995 due to her

request for a qualified nurse for one of her patients', Flonnie McClane. As a result of being removed from the registry, the Defendant has not received any notices of meetings, notices of classes required for relicensing, the monthly newsletter or her license renewal application normally mailed in the first of April (60 days prior to license expiration). The Defendant was told this was standard procedure for the Adult Care Home Program. Why would such a '*procedure*' be developed; unless, of course, the ACHP knew in advance there was no chance of a Defendant prevailing in an Appeal Hearing? Providers have been known to be encouraged to request an Appeal Hearing by the ACHP. These same providers sensed something amiss and declined to do so. What happened to due process?

The Multnomah County Adult Care Home Program and Aging Services Division through Heather Stewart and Sheen Wu have maliciously slandered the Defendants' reputation as an Adult Care Provider. The Defendant has received reports that staff at the Adult Care Home Program office and the East Branch Division of Aging Services Division have given slanderous information over the phone to numerous prospective patients, encouraging these patients to either not move into the Defendant's AFH; or encouraged to move out on 2 different occasions involving 2 different patients, i.e. Vivianne Blake and Pauline Alvarez.

Why has Mary Fassell been so confident that the Defendant's home would not be relicensed? Because these hearings are a sham -- a pretense, solely to give the '*appearance*' of a 'fair and just

hearings process for the revocation of Adult Care Home Licenses.' Why is the county so sure of itself? When a conspiracy exist, those involved act overly confident -- with the knowledge that the Hearings Officer will back any decision made by their co-conspirator or co-conspirators.

These overly aggressive actions against the Defendant signifies the County has no intention of allowing her to remain in operation. They, again, can only be this confident when involved in a conspiracy. After studying the contract under which Mr. Shatzer accepts appointments, he accepts no responsibility for his decisions and the Aging Services Division even protects him from any legal actions brought against him by agreeing in the contract to pay for his legal expenses. With this arrangement, Mr. Shatzer accepts no accountability.

The Defendant has commissioned 13 letters requesting conferences and hearings. The MCAR's dictate that the ACHP schedule a conference within 10 days after receiving a request. An untold number of requests went unanswered. Another signification that the ACHP was planning to allow the Hearings Officer to follow their direction with revoking the Defendant's license. Being in direct violation of their own MCAR's the Hearings Officer is required to remand the hearing back to the agency. This request was made in the form of a motion on two (2) separate occasions. The Hearings Officer both time denied the motions.

On February 27, 1996, the Manager of the Adult Care Home Program stated in a public meeting that, "the provider never prevails in an Appeal Hearing." How could she **know** this unless a conspiracy existed? (Ref: Page 62 of the minutes transcribed of the meeting with the ROA Providers' Association)

The Appeal Hearings Officer has ignored the Defendants' orders from her Kaiser Permanente Health Care Provider to refrain from participating in any "formal hearings" for 30 days. He ordered not only the Defendants presence at Hearings, but also her participation, while under "acute stress". Defendant was threatened with a default decision, if she did not appear. During this appearance, Mr. Shatzer entered an order for the Defendant to sign a document prepared in advance by Ms. Catherine Gaetjens, Sr. Assist. County Counsel for Aging Services Division. The Defendant alleges a conspiracy existed between Ms. Gaetjens and Mr. Shatzer by way of his 'order for her to appear', as well his 'order for her to sign the document' under coercion.

Why else would the Adult Care Home Program so blatantly **NOT** respond to the Defendants three (3) different attorney's letters, or the Defendant's letters, unless they were certain 100% the hearings officer would back them as only parties involved in a conspiracy could be.

On May 9, 1996, Wm. W. Shatzer repeatedly referred to the Appeal Hearing #161035 of the defendant in a demeaning manner and referenced his duty to decide whether

or not the defendant should be allowed to continue operating her Adult Care Home of the past 12 years with such low regard as: '**this thing**'.

To refer to the Defendant's license to operate an Adult Care Home, her livelihood and sole source of income for the past 12 years as, '**this thing**' signified his low regard not only for the Defendant but also her chosen profession.

Mr. Shatzer has denied **EVERY MOTION** presented by the defendant. By indicating that participants in Administrative Hearings are not subject to protection by the United States Constitution and Bill of Rights, it is the position of the Defendant that Mr. Shatzer's "character is thus marked by every act which may define a Tyrant; and is, thereby, unfit to rule..." (Ref: Congress July 4, 1776, The unanimous Declaration of the thirteen United States.) Mr. Shatzer violated the First Amendment Right of Freedom of the Press by denying the press the right to make a video taped recording of the Defendants' Appeal Hearing.

Wm. W. Shatzer deprived the Defendant of due process by limiting her witnesses and also limiting her testimony to only 8 hours. When the Defendant demanded equal time as the ACHP -- testimony over a four (4) day period, Mr. Shatzer denied

her request. It was, also, the Hearings Officer responsibility to accept documentation presented to be "**marked and entered for the record**"; i.e. a White 3" Notebook, containing affidavits, letters of reference, letters confirming phone conversations, and letters requesting conferences (390 pages) -- the basis for the Defendants' defense -- of which the Hearings Officer, now, has absolutely no conception, since the Defendants' testimony was restricted. **Unfortunately, he refused.**

Defendant further alleges Wm. W. Shatzer's rulings, demeaning mannerisms, and general character, or lack of, violates the State of Oregon's Bar Code of Ethics. A fair Hearings Officer would have no reason to disqualify any witnesses unless he was, in fact, protecting them and in conspiracy with them; i.e., Multnomah County Aging Services Division. It is the duty of a Hearings Officer to listen to testimony from BOTH parties in order to made an unbiased decision.

Mr. Wm. W. Shatzer simply has not fulfilled his contract with the people of Multnomah County.

Defendant moves that Mr. Wm. W. Shatzer, City of Portland, Code Hearings Officer, disqualify himself from further involvement with subject Appeal Hearing for purposes of demonstrating extreme prejudice as outlined above.

DATED this 27 day of May, 1996.

Respectfully submitted,

By: Dianna J. Roberts
Dianna J. Roberts, Defendant
19390 N.E. Multnomah Ct.
Portland, OR 97230

CERTIFICATE OF SERVICE

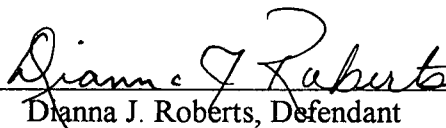
I, hereby, certify that on the 27 day of May, 1996, I served within **SECOND MOTION for Hearings Officer to Disqualify Self** the individual listed below, by a telephone facsimile communication device to the number listed below, of which the printed confirmation of receipt is attached:

Wm. W. Shatzer
Code Hearings Officer
1120 S.W. 5th, Rm. 1017
Portland, OR 97204

FAX: 823-4347

cc: Catherine Gaetjens, Sr. Asst. County Counsel
Multnomah County Oregon
1120 S.W. 5th Ave., Suite 1530
Portland, OR 97204

FAX 248-3377



Dianna J. Roberts, Defendant
19390 N.E. Multnomah Ct.
Portland, OR 97230



MULTNOMAH COUNTY OREGON

OFFICE OF THE BOARD CLERK
SUITE 1510, PORTLAND BUILDING
1120 S.W. FIFTH AVENUE
PORTLAND, OREGON 97204

BOARD OF COUNTY COMMISSIONERS

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SHARRON KELLEY •	DISTRICT 4	• 248-5213
CLERK'S OFFICE •	248-3277	• 248-5222

July 12, 1996

CERTIFIED MAIL P 335 736 068

*Ms. Dianna J. Roberts
Rosewood Care, Inc.
19390 NE Multnomah Court
Portland, Oregon 97230*

Re: Appeal from Hearings Officer Decision on Adult Care Home License

Dear Ms. Roberts:

Your July 2, 1996 request for Multnomah County Board review of the June 14, 1996 hearings officer decision was timely received and the matter has been scheduled on the Board's agenda for Thursday, August 15, 1996 in Room 602 of the Multnomah County Courthouse, 1021 SW Fourth, Portland.

I will be sending you copies of the agenda as well as the hearings office record in your case, and any other information I receive as it becomes available.

If you have questions regarding the upcoming procedure, please contact City Attorney Pete Kasting at 823-4047, as he advises the Board on these matters because County Counsel represents the Adult Care Home Program. Thank you.

Sincerely,

*Deborah L. Bogstad
Board Clerk
(503) 248-3277*

*cc: Pete Kasting
Katie Gaetjens
Mary Fassell
Board of Commissioners*

Stick postage stamps to article to cover First-Class postage, certified mail fee, and charges for any selected optional services (See front).

1. If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached, and present the article at a post office service window or hand it to your rural carrier (*no extra charge*).
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3. If you want a return receipt, write the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed ends if space permits. Otherwise, affix to back of article. Endorse front of article **RETURN RECEIPT REQUESTED** adjacent to the number.
4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse **RESTRICTED DELIVERY** on the front of the article.
5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.
6. Save this receipt and present it if you make an inquiry.

P 335 736 068

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Ms. Dianna J. Roberts

Street & Number

19390 NE Multnomah Court

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Portland, Oregon 97230

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Date, & Addressee's Address

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PS Form 3800, April 1995

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- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Ms. Dianna J. Roberts
 Rosewood Care, Inc.
 19390 NE Multnomah Court
 Portland, Oregon 97230

4a. Article Number

P 335 736 068

4b. Service Type

- | | |
|--|---|
| <input type="checkbox"/> Registered | <input checked="" type="checkbox"/> Certified |
| <input type="checkbox"/> Express Mail | <input type="checkbox"/> Insured |
| <input checked="" type="checkbox"/> Return Receipt for Merchandise | <input type="checkbox"/> COD |

7. Date of Delivery

7.13.96

5. Received By: (Print Name)**8. Addressee's Address (Only if requested and fee is paid)****6. Signature: (Addressee or Agent)**

X *Dianna J. Roberts*



CITY OF
PORTLAND, OREGON
HEARINGS OFFICE

1120 S.W. 5th Avenue, Room 1017
Portland, Oregon 97204-1960
Land Use Hearings (503) 823-7719
Code/Towing Hearings (503) 823-7307
FAX (503) 823-4347
TDD (503) 823-6868

July 18, 1996

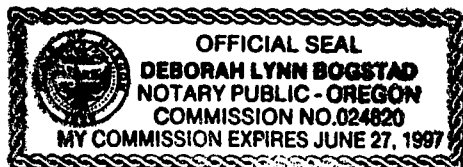
I certify that enclosed herewith is the true and complete record of the appeal of Dianna Roberts, Hearing Number 161035. The record includes the originals of correspondence, exhibits and tape recordings of the hearings and photocopies of the Hearing Record (2 pages), Hearings Officer's Order and Roberts' request for appeal (includes additional documents) received in our office on July 5, 1996 and a print-out of the Code Hearing Office final Historical Log.

Dated: July 18, 1996

Ruth A. York
Hearings Clerk

Dated: July 18, 1996

Notary Public



My commission expires 6/27/97



CITY OF
PORTLAND, OREGON
HEARINGS OFFICE

1120 S.W. 5th Avenue, Room 1017
Portland, Oregon 97204-1960
Land Use Hearings (503) 823-7719
Code/Towing Hearings (503) 823-7307
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HEARINGS OFFICER'S ORDER

APPEAL OF DIANNA J. ROBERTS

HEARING NO. 161035

DATES OF HEARING:
COMMENCED: March 28, 1996
ENDED: May 21, 1996

APPEARANCES:

Ms. Katie Gaetjens, Assistant County Counsel for Multnomah County

Ms. Dianna J. Roberts, appellant

HEARINGS OFFICER: Mr. William W. Shatzer

STATEMENT OF THE CASE.

This proceeding is an appeal from a determination of the Multnomah County Adult Home Care Program revoking the license of the appellant Dianna Roberts to operate an Adult Care Foster Home.

On November 28, 1995, the Sanctions Specialist for the Multnomah County Adult Care Home Program issued a Notification of Administrative Sanctions pursuant to MCAR 890-080-200 et seq in which the Sanctions Specialist determined that the appellant had failed to conform to numerous provisions of the applicable Multnomah County Administrative Rules for Licensure of Adult Care Homes (Multnomah County Administrative Rules, Chapter 890). The Sanctions Specialist further determined that the violations were of such a nature as to warrant the revocation of appellant's Adult Care Home License under MCC 8.90.080(A) and, accordingly, revoked Ms. Roberts Adult Care Home license.

On December 15, 1995, Ms. Roberts filed a request for hearing on the license revocation pursuant to MCC 8.90.090 and MCAR 890-090-100. This proceeding followed.

PRELIMINARY RULING.

On February 12, 1996, the Multnomah County Adult Care Program issued an amendment to the November 28, 1995 Notice of Administrative Sanctions, making several additional determinations of non-compliance with the provisions of the Multnomah County Administrative Rules for Licensure of Adult Care Homes and determining that these constituted additional grounds for the revocation of Ms. Roberts' Adult Care Home license (Exhibit 9). At hearing, the County sought to introduce this amendment and offer evidence in support of the determinations contained therein. Upon the appellant's objection, the hearings officer allowed the County to offer evidence in support of the determinations contained in that amendment and reserved ruling on the appropriateness of the amendment and the admissibility of the evidence offered in support thereof.

The hearings officer subsequently determined that the purported amendment was inappropriate and improper for the reasons set for in the hearings officer's letter determination of April 16, 1996.

Accordingly, none of the allegations contained in the February 12, 1996 amendment are properly a part of this proceeding and the evidence offered by the County in support thereof has not been considered by the hearings officer in this decision.

FINDINGS OF FACT AND CONCLUSIONS OF LAW.

As a preliminary matter, I must comment that this has been, without a doubt, the most difficult administrative hearing with which I have ever been involved in my more than eleven years serving as a hearings officer. Principally this was due to Ms. Roberts' constant dilatory and delaying tactics; her filing of numerous and voluminous motions, few, if any of which had any factual or legal basis; and her continued refusal to conform to established and orderly procedures.

However, the situation was exacerbated by the County's failure to implement and use regular and clear procedures in dealing with this case and the somewhat ad hoc nature of the procedures apparently used. In addition, in issuing its 14-page November 28, 1995 Notice of Administrative Sanctions, the County adopted a "scatter-gun" approach, by including every violation, purported violation, alleged violation or possible violation of the Multnomah County Administrative Rules which conceivably be laid against Ms. Roberts over the recent and not so recent past. Some of these alleged violations were of a trivial nature or not violations of the administrative rules; others were phrased in only the vaguest and indefinite terms; and, on others, the County never offered evidence at hearing. This unduly expanded the scope of this hearing and injected many issues which ultimately proved irrelevant.

In these findings of fact, I have considered and discussed only those allegations of violation which are of a substantial nature and on which the County offered substantial evidence in support thereof.

1. During the late evening of April 12, 1995 or the early morning hours of April 13, 1996, O, an elderly resident of the appellant's Adult Care Home, fell while using a commode. The appellant, Ms. Roberts, was on duty as the resident care giver at the time of the fall. Following the fall, Ms. Roberts apparently did nothing except to return O to her bed. When the day caregiver arrived for duty sometime before 9:00 am on the morning of April 13, the Ms. Roberts told her about the fall but provided the day caregiver with no special instructions as to monitoring or seeking medical treatment for O before Ms. Roberts left the Adult Care Home for the day.

O remained in bed in a comatose or semi-comatose condition throughout the day of April 13. No medical treatment or medical advice was sought by either the appellant or the day caregiver until sometime around 4:00 pm that afternoon when Ms. Roberts returned to the adult care home. At that time, the day care-giver related to Ms. Roberts O's lack of responsiveness and comatose or semi-comatose condition. Ms. Roberts' thereupon summoned emergency medical personnel. O was transported to the hospital where it was ultimately determined that O had suffered a fractured hip and a stroke although it is unclear whether the stroke was the result of, or the cause of, the fall. O never recovered sufficiently to return to the adult care home and died approximately two months after this incident.

There is some dispute as to the specific authority Ms. Roberts had delegated to the day caregiver to seek or obtain medical assistance, treatment, or advice for the residents of the adult care home including O. The day caregiver testified that she had been specifically instructed that she was not authorized to seek medical assistance or treatment for the residents except on Ms. Roberts' specific instructions. Ms. Roberts testified the day care-giver's testimony was incorrect and that the day care-giver did, in fact, have authority to call 911 or otherwise seek medical treatment if appropriate. I believe the day caregiver's testimony to be the more accurate and most satisfactorily explains the actual course of events. In any case however, Ms. Roberts' actions in this situation bespeaks a serious and substantial neglect of her duty to provide prompt and effective medical treatment for this resident.

There is no evidence that Ms. Roberts made any attempt to monitor O's vital signs at any time between the fall and the time emergency medical personnel were summoned at four o'clock on the afternoon of April 13. There is no evidence that she sought any medical advice from a physician, nurse, or other medical personnel as to whether further examination or treatment of O might be appropriate following her fall. While Ms. Roberts did inform the day caregiver of the fall, she apparently provided no instructions or guidance to the day caregiver about monitoring O's condition or whether or under what circumstances

medical treatment or advice should be sought for O during Ms. Roberts' absence. In short, Ms. Roberts undertook no measures to either seek medical treatment or to assure that medical treatment was not required. Despite the fact that O had suffered serious injury in the fall and had a potentially life threatening medical condition, O was left untreated and unexamined by medical personnel for a period well in excess of 12 hours.

Under MCAR 890-015-660, "neglect" is defined as, "failure to make a reasonable effort to discover what care is necessary to the well-being of a resident," and "withholding or failing to seek appropriate medical attention and care, or failure to direct staff ... to seek appropriate medical attention and care." Ms. Roberts' actions and lack of actions in this instance clearly fall within this definition.

When attempting to investigate this incident, Multnomah County Adult Care Home investigators requested inspection of Ms. Roberts' records on O including the appropriate progress notes and incident reports on O. MCAR 890-020-450 requires adult care home operators to keep, maintain, and make accessible to County personnel accurate resident records, including appropriate incident reports on all "falls, injuries, absences, medical emergencies or similar occurrences." Not only was Ms. Roberts unable to produce progress notes and incident reports on O documenting the circumstances surrounding her fall and subsequent events but Ms. Roberts was unable to produce any records on O at all. Ms. Roberts failure to create and/or maintain such records and or make such records available to County investigators was a violation of MCAR 890-020-450.

2. During the evening of June 7, 1995, V, another resident of Ms. Roberts' adult care home fell suffering injuries requiring hospitalization when she was left unattended on a commode. V had previously been hospitalized on several occasions within the previous month and was known to Ms. Roberts to have been in a weakened condition. Despite Ms. Roberts' knowledge of V's condition, she failed to provide supervision or assistance while V was using the commode.

Ms. Roberts' failure to provide adequate assistance and supervision for this resident constituted neglect under the provisions of MCAR 890-015-660.

After returning from the hospital on June 12, 1995, V suffered yet a second fall under similar circumstances which, while not requiring hospitalization, caused severe bruising over a considerable portion of her body. While Ms. Roberts was apparently providing supervision and assistance of V when this second fall occurred, such assistance was inadequate to prevent the fall. Moreover, despite the extensive bruising which V suffered as a result of this fall, Ms. Roberts' failed to seek medical treatment for V or to consult with medical personnel as to whether treatment was required. Ms. Roberts' failure to take adequate measures to prevent this second fall and to seek medical treatment or advice regarding V's injuries from this fall constitutes neglect within the provisions of MCAR 890-015-660.

In investigating these incidents, Multnomah County investigators requested to inspect the progress notes and incident reports on V for these periods. Ms. Roberts' was unable to produce any medical records, progress notes or incident reports on V for the months of either June or July, 1995. Failure to maintain these records and make them available to Multnomah County investigators is a violation of MCAR 890-020-450.

Upon V's discharge from the hospital on June 12, V was issued a prescription for 20 tablets of Tylenol III, a controlled drug. During the course of their investigation, Multnomah County investigators requested to examine the records of Ms. Roberts' administration of this medication and the unused portions of this prescription. Ms. Roberts' could produce neither the records nor the unused portions of the prescription, stating to County investigators that she had "dumped the unused portions of the prescription down the toilet." However, at hearing, Ms. Roberts produced a Disposal of Controlled Drugs form (Exhibit 206) demonstrating that these tablets had been disposed of at IPAC Pharmacy Services on March 26, 1996, clearly establishing that these tablets were within Ms. Roberts custody and control at the time the investigators requested to inspect them. MCAR 890-020-510(d) requires that all controlled substances be fully accounted for and MCAR 890-20-510(c) requires that all medications be kept in a locked, central location. Ms. Roberts' inability to produce these tablets which were clearly within her custody and control demonstrates that she could not, at that time, fully account for this medication nor was she maintaining it in a locked central location in violation of both MCAR 890-020-510(c) and (d).

3. On the evening of July 20, 1995, F, another elderly resident, fell while on her way to the bathroom and suffered injuries severe enough to require that 911 be summoned. F had called for assistance to aid her but no one responded to her calls. When no assistance was forthcoming after repeated calls for assistance attempted to walk to the bathroom unassisted when she lost her balance and fell. F had a previous history of falling and is only semi-ambulatory, of which Ms. Roberts was aware. Despite this, Ms. Roberts failed to provide supervision and assistance to F at night or to provide F with an adequate means of requesting such assistance at night.¹

Ms. Roberts' failure to provide F with assistance, to respond to her requests for assistance and to provide an adequate means of summoning assistance constitutes neglect within the provisions of MCAR 890-015-660.

4. MCAR 890-020-450 requires all adult care home operators to keep and maintain all required residents' personal and medical records for a period of three years and to make such records available to the County during the course of its inspections, interviews and investigations. On September 5, 1996, County investigators requested certain residents' records for the previous three-year period be made available to the investigators for inspection. Ms. Roberts failed to produce such records and failed to respond to repeated requests by County investigators to schedule an appointment to examine such records. After repeated requests to schedule such an appointment, Ms. Roberts finally agreed to make the requested records available for inspection on October 17, 1995. However, when County investigators arrived at Ms. Roberts' adult care home on October 17, to inspect the records, they were informed that the records were unavailable because they had been inadvertently destroyed by Ms. Roberts' housekeeper the previous day.

Quite frankly, Ms. Roberts' explanation for the non-production of the requested records is implausible. Its implausibility is reinforced by Ms. Roberts' initial refusal to produce the records and her consistent delaying tactics and non-cooperation in producing these records in response to the initial September 5, request.

MCAR 890-020-450 requires adult care home operators to keep and maintain residents' records and to make them available for inspection by the County. Ms. Roberts' failure to do so, for whatever reason, is clearly in violation of those provisions of the County Administrative Rules.

5. MCAR 890-020-230(e) requires that adult care home operators provide the County with a criminal record release authorization form "prior to or at the time of employment" for all newly hired resident managers and caregivers. On or about July 20, 1995, Ms. Roberts employed a Velma Elizabeth Spruell as a caregiver at her adult care home but failed to provide the County with the required criminal record release form until August 11, 1995. Ms. Roberts failure to provide this release form "prior to or at the time of employment" was in violation of MCAR 890-020-230(e).

6. MCAR 890-020-260(a) requires, "Operators...shall cooperate with Department personnel or designees in inspections, interviews, complaint investigation procedures,... and shall allow full access of Department personnel or designees to the Adult Care Home facility, to its caregivers, residents, and other occupants and to its records concerning residents or pertaining to the operation of the Adult Care Home." The evidence establishes that Ms. Roberts has failed to demonstrate the degree of cooperation required under MCAR 890-020-260(a).

The County initially requested of Ms. Roberts access to Ms. Roberts' residents' records on September 5, 1995. These records are required to be maintained and stored on the adult care home premises pursuant to ¹ MCAR 890-020-450(b). Ms. Roberts refused to make those records available for inspection at that time and at a subsequent visit. In a further attempt to obtain access to the records, the County investigators left several phone messages with Ms. Roberts' answering machine, requesting she schedule an appointment

¹ Ms. Roberts had provided small bells in the residents' rooms as a night call system. However, the evidence demonstrates that these bells were insufficiently loud to be heard in Ms. Roberts' living quarters if the bells sounded at night in the residents' rooms, especially if the doors were closed, and the bells were inadequate as a night call system.

for the inspection of those records. Those phone messages were not returned. In one instance where County investigative personnel were successful in reaching Ms. Roberts personally by phone, she refused to schedule an appointment for the inspection of the records. While Ms. Roberts did, eventually, agree to an appointment for inspection of the records on October 17, 1995, some six weeks after the inspection of the records was initially requested, inspection never occurred because, as related above, Ms. Roberts claimed the records had been destroyed the preceding day.

There is little question that under the provisions of MCAR 890-020-260(a), County investigative personnel had an absolute right to examine and inspect the requested records. Ms. Roberts' action display a repeated obstruction and non-cooperation with the County's attempts to obtain access to these records – which were never, ultimately, made available to the County. Ms. Roberts' actions were a clear violation of her duty to cooperate and all full access under MCAR 890-020-260(a).

7. Finally, there are the myriad of incidents involving Ms. Roberts which, while not involving violations of specific violations of the Multnomah County Administrative rules, do evince a lack of good judgment and sound character on her part.

Ms. Roberts, against the wishes and without the consent of F and F's family, cancelled a doctor's appointment F had previously made and rescheduled the doctor's appointment with a physician of Ms. Roberts' choosing.

Ms. Roberts made numerous repeated and unsubstantiated complaints against her visiting contract nurse, including not only complaints to the nurse's supervisor but also to the State Nursing Board.

Ms. Roberts represented herself in brochures and advertising as being a Certified Nursing Assistant when, in fact, her CNA registration had lapsed in 1992.

When F and Ms Roberts got into an argument, Ms. Roberts summoned 911 emergency medical services to her adult care home in an attempt to cause F to be removed from her home to the hospital when, in fact, there was no medical emergency. This was an inappropriate means of dealing with the situation.

Ms. Roberts made numerous attempts to intimidate caregivers, the visiting contract nurse, a State ombudsman and others into signing statements favorable to or exculpatory of Ms. Roberts.

Ms. Roberts misrepresented the statements and position of the State Ombudsman to County administrative personnel.

While none of these directly violate any specific Multnomah County Administrative Rule and, taken in isolation, might not be particularly significant, when taken together and in conjunction with the specific MCAR violations outlined above, they do evince a pattern which bespeaks a lack of good judgment and sound character. MCAR 890-020-200(b) and (c) requires that operators of adult care homes possess good judgment and good personal character. In the County's determination, the Sanctions Specialist specifically found that Ms Roberts, in fact, lacked the good judgment and sound personal character required under MCAR 890-020-200 of operators of adult care facilities. Based upon the record in this proceeding, I find no error in that determination.

Under the provisions of Multnomah County Code 8.90.080 (A), the license of an adult care home operator may be revoked when the owner or operator has failed to comply with the applicable Multnomah County Administrative Rules for the Licensure of Adult Care Homes. As the evidence in this proceeding clearly establishes that not only did Ms. Roberts violate such rules but that she did so on multiple and repeated occasions, often putting at risk the health, safety or welfare of her residents.

The determination in the Notice of Administrative Sanctions dated November 28, 1995 should be sustained.

ORDER AND DETERMINATION:

The determination in the Notice of Administrative Sanctions dated November 28, 1995 revoking the Adult Care Home License of the appellant, Dianna Roberts, is hereby SUSTAINED.

This order and determination has been mailed to the parties on June 14, 1996 and shall become final on July 5, 1996 unless written exceptions are filed with the Board of County Commissioners prior to such date.

Dated:

June 14, 1996

William W. Stief
Code Hearings Officer

WWS:sj

CITY OF PORTLAND -- CODE HEARINGS OFFICE

Hearing No. 161035

Hearings Officer: William W. Shatzer

HEARING RECORD

Date	Tape #	Counter Reading		Date	Tape #	Counter Reading	
		Beg.	End			Beg	End
3/28/96	1	1024	7020	4/25/96	1	14	812
3/28/96	2	16	7036	5/9/96	2	28	430 508
3/28/96	3	16	7591	5/17/96	1	21	6159
3/29/96	1	20	7117		2	21	6916
	2	17	6810		3	20	7073
	3	24	6900		4	21	3209
	4	20	269	5/21/96	1	21	7114
4/5/96	3	21	7140		2	20	2300
	4	20	2214				
4/19/96	1	21	1393				

Exh. No.	Date	Offered by	Rc-Received	Description
			Rj-Rejected	
			Rs-Reserved	
1	3/28/96	County	RC	Time-Line for Roberts
2	3/28	"	RC	7/14/95 letter to Roberts
3	3/28	"	RC	Complaint form 7/25/95
4	"	"	RC	Complaint form 8/12/95 (SUBSTITUTE)
5	"	"	RC	Complaint form 7/20/95
6	"	"	RC	Complaint form 6/19/95
7	"	"	RC	Complaint form 7/29/95
8	"	"	RC	Complaint form 9/20/95
9	"	"	RC *	Feb. 12, '96 letter to Roberts
10	"	"	*	960112 Complaint
11	3/28	"	RC	3/15/96 memo - St. Bd. of Oregon
12	3/28	"	RC	Brochure (copy)
13	"	"	RC	Newspaper Ad - (copy)
14	3/28	"	RC	Business card - (copy)
201	3/28	Appellant		not Presented
15	3/28	County	*	Roberts letter to Brown
16	3/29	County	RC	ACH Brochure (Roberts)

* Deferred Acceptance

Exh. No.	Date	Offered by	Rc-Received Rj-Rejected Rs-Reserved	Description
202	3/29/96	Appellant	Rc	photo of door sign
203	3/29/96	Appellant	Rc	photo-door
204	3/29/96	Appellant	Rc	photo-grass
17	3/29/96	County	Rc	10/10/95 - OR Bd of Nursing letter
18	3/29/96	County	Rc	memo
19	3/29/96	County	Rc	photo
20	3/29/96	County	Rc	photo
21	3/29/96	County	Rc	3/19/96 letter from Ingram
205	3/29/96	Appellant	Rc	handwritten complaint
22	4/5/96	County	Rc	emergency room record 4/13/95
23	4/5/96	County	Rc	handwritten notes 6/17-21/95 "Verna"
24	4/5/96	County	Rc	hospital discharge form
25	4/5/96	County	Rc	meds sheet, Davis, (August)
26	4/5/96	County	Rc	9/15/95 letter
27	4/5/96	County	Rc	9/12/95 letter
28	4/5/96	County	Rc	note with psych measurement ^{other attach}
29	4/5/96	County	Rc	notes big 1/10/95 (handwritten)
30	4/5/96	County	Rc	diagram of Roberts' home
31	4/5/96	County	Rc	affidavit
206	5/17/96	Appellant	Rc	schedule of drugs & bubble card
207	5/17/96	Appellant	Rc	affidavit - Rosalie Lopp
208	5/17/96	Appellant	Rc	pictures - Florence McClane
209	5/17/96	Appellant	Rc	5/15/95 letter Eubanks
210	5/17/96	Appellant	Rc	5/3/95 letter Eubanks
211	5/17/96	Appellant	Rc	affidavit - Spruell
212	5/17/96	Appellant	Rc	7/3/93 letter to Fessell
213	5/17/96	Appellant	Rc	7/13/93 letter to Balgo to Roberts
214	5/17/96	Appellant	Rc	5/6/95 letter to Andell-Thompson
215	5/17/96	Appellant	(Rj)	8/7/95 affidavit Ada Tyson unsigned
216	5/17/96	Appellant	Rc	10/1/95 affidavit Gosserson
217	5/17/96	Appellant	Rc	5/15/95 letter to Harold
218	5/17/96	Appellant	(Rj)	"Notes"
219	5/17/96	Appellant	(Rj)	4/21/95 letter to Harold (not mailed)
220	5/17/96	Appellant	Rc	10/16/95 affidavit Banks
221	5/17/96	Appellant	Rc	record keeping check list

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Hearings Officer: William W. Shatzer

[illegible]

Exh. No.	Date	Offered by	Rc-Received Rj-Rejected Rs-Reserved	Description
222	5/17/96	Appellant	Rc	5/31/95 letter to Glanz
223	5/17/96	Appellant	Rc	8/24/95 letter to Inman
224	5/17/96	Appellant	Rc	5/16/95 affidavit McClane
* 225	5/17/96	Appellant	(Rj)	10/12/95 affidavit x Donk ^{except 10x 2 boxes}
* 226	5/17/96	Appellant	(Rj)	10/11/95 affidavit Scragg ^{except 10x 2 boxes}
				> except # 5-8
227	5/17/96	Appellant	(Rj)	4/20/95 affidavit E. Banks
228	5/17/96	Appellant	Rc	4/12/95 affidavit McClane
229	5/17/96	Appellant	Rc	4/12/95 affidavit Rogers
230	5/17/96	Appellant	Rc	4/12/95 affidavit J. Persen
231	5/17/96	Appellant	Rc	4/17/95 affidavit Steiner
232	5/17/96	Appellant	Rc	4/12/95 affidavit McGinnis
233	5/17/96	Appellant	Rc	unsigned statement - Tom Glanz
234	5/17/96	Appellant	(Rj)	9/6/95 letter to de Master
235	5/17/96	Appellant	(Rj)	8/18/95 letter to Roberts
236	5/17/96	"	Suo	9/18/95 letter to DeMaster
237	5/17/96	"	Suo	9/22/95 letter to DeMaster

(RJ) Low Relevance

Exh. No.	Date	Offered by	Rc-Received Rj-Rejected Rs-Reserved	Description
238	5/17/96	Appellant	Sub (RS)	10/22/95 letter to DeMaster
239	5/17/96	Appellant	Sub (RS) - Rj	10/26/95 letter to Supri AC4 Program
240	5/17/96	"	" (RS)	10/26/95 letter to Supri AC4 Program
241	5/17/96 5/17/96	"	" (RS)	11/17/95 letter to Supri AC4 Program
242	5/17/96	Appellant	(Rj)	Complaint to OR St. Bar
243	5/17/96	Appellant	(Rj)	Affidavit of 6/20/96
244	5/17/96	Appellant	RC	5/6/96 letter from Pierce
245	5/17/96	Appellant	RC	10/11/95 affidavit Banks
246	5/17/96	Appellant	RC	9/7/95 letter to Fassell
247	5/17/96	Appellant	RC	Resident's Progress Report
248	5/21/96	Appellant	(Rj)	2 mini-cassettes - 6/29/95 & 6/22/95
249	5/21/96	Appellant	(Rj)	complaint re. Mary Fassell
250	5/21/96	Appellant	(Rj)	letter 13/26/96 Terry Lee to Kim my attack
251	5/21/96	Appellant	(Rj)	"Dear Mr. DeMaster response"
252	5/21/96	Appellant	(Rj)	5/21/96 letter from Kathy Ward
253	5/21/96	Appellant	RC	12/13/95 letter to Cindy Annan
254	5/21/96	Appellant	(Rj)	5/31/95 letter to Glantz
255	5/21/96	Appellant	RC	file notes - hand written
256	5/21/96	Appellant	(Rj)	6/16/95 letter to McConnell
257	5/21/96	Appellant	RC	5/20/96 letter to whom it may concern
258	5/21/96	Appellant	(Rj)	2/29/96 letter to Janna from Egner
259	5/21/96	Appellant	(Rj)	4/16/96 letter Roberts to Kharril
260	5/21/96	Appellant	RC	photo of thermostat
261	5/21/96	Appellant	(Rj)	progress notes with initials
262	5/21/96	Appellant	(Rj)	5/21/96 log of visitors
263	5/21/96	Appellant	(Rj)	investigation report of Holyfield
32	5/21/96	County	RC	1/11/96 letter to Smith
33	5/21/96	County	RC	1/5/96 letter Fassell to Roberts
				1/18/96 letter Roberts to Fassell

Hearing # 161035

Final Historical Log

Date Prepared: 7/18/96

Time Prepared: 10:38:58

<u>Date Filed</u>	<u>1/17/96</u>	<u>Tapes</u>	<u>YES</u>
<u>Bureau</u>	<u>Multnomah County</u>	<u>City Exhibits</u>	<u>YES</u>
<u>Viol. Type</u>	<u>appeal - adult care home</u>	<u>Resp. Exhibits</u>	<u>YES</u>
<u>Date Closed</u>	<u>7/8/96</u>	<u>CHO Exhibits</u>	<u>NO</u>
<u>Status</u>	<u>sustained</u>	<u>Discussion</u>	
<u>Tapes and exhibits may be purged on or</u>		<u>2/3/97</u>	

Hearings

<u>Date</u>	<u>Time</u>	<u>Purpose</u>	<u>Disposition</u>
3/14/96	1:30:00 PM		Cancelled.
3/15/96	9:00:00 AM		Cancelled.
3/28/96	1:30:00 PM		Hearing held. Appearances: Roberts, Gaetjens, Fassell, Sheen Wu (County Counsel's office). Continued to 9:30 a.m., 3/29/96.
3/29/96	9:00:00 AM	Continuation from 3/28/96.	Hearing continued. Appearances: Roberts, Fassell, Gaetjens, Wu. Continued to 1:30 p.m., 4/5/96, and 9:00 a.m., 4/19/96. (4/25 pm and 4/26 all day reserved if needed.)
4/5/96	1:30:00 PM	Continued from 3/29/96.	Hearing held. County and Roberts to issue written evidence re. incidents subsequent to 11/28/96 (Flanagan) by 4:30 p.m., 4/12/96. Continued to 4/19/96. Appearances: Roberts, Fassell, Gaetjens.
4/19/96	9:00:00 AM	Continued from 4/5/96.	Hearing begun, but continued to 1:30 p.m., 4/25/96. (No notices to be mailed.) Appearances: Roberts, Fassell, Gaetjens, Wu.
4/25/96	1:30:00 PM	Continued from 4/19/96.	Hearing begun, but adjourned at 2:05 when Roberts suffered a medical emergency and the paramedics were called. Appearances: Roberts, Fassell, Jacqueline Webber (County Counsel's office).
4/26/96	9:00:00 AM	Reserved for continuation from 4/25/96.	Cancelled.
5/9/96	1:30:00 PM	Continued from 4/25/96.	Hearing continued (i.e., no testimony, but discussion of how to proceed). Roberts signed medical release form for County. 5/10/96 hearing date cancelled. Continued to 9 a.m., 5/17/96. Appearances: Roberts, Fassell, Gaetjens.
5/10/96	9:00:00 AM	For continuation from 5/9/96.	Cancelled.
5/17/96	9:00:00 AM	Continued from 5/9/96.	Hearing held; continued to 1:30 p.m., Tuesday, 5/21/96. Appearances: Roberts, Fassell, Gaetjens.
5/21/96	1:30:00 PM	Continued from 5/17/96.	Hearing concluded. Closing arguments to be submitted in writing by Tuesday, 5/28/96, 5 p.m. Appearances: Roberts, Fassell, Gaetjens.

Civil Penalties, Liens, Bureau Fees

Control# DatePosted Type of fine/fee Dates: / Imposed /
 / Paid /
 / Liened /
 / Cancelled / Amounts: Center Code

Contacts

<u>Date</u>	<u>Key</u>	<u>Comments</u>
1/17/96	appeal	Received appeal of license revocation from Roberts via Fassell. (Gaetjens first brought down faxed copy of 1/12 letter Fassell to WS. Original, with a number of attachments, arrived later in the mail. See case #154001 for discussion of preliminary matters.) DB
1/18/96	appeal hrgs	Per WS' instructions, revocation and subsequent appeal will be treated as a separate case, now assigned case #161035. Hearing will be scheduled on that issue only, with the suspension and appeal (case #154001) held in abeyance until the conclusion of 161035. Hearing set for Thursdays 1:30 and Fridays 9:00, 3/14-15 and 3/28-29/96, per discussion yesterday with Gaetjens. DB
1/18/96	tel	Left message for Gaetjens about scheduling of hearing (i.e., 3/14-15, 28-29; only revocation to be heard first). DB
1/18/96	tel tkl	Called Fassell, told her of WS' decision to hear only the revocation case initially; and that on 3/14-15 and 28-29. Later called Roberts, told her also WS would handle revocation only first; hearing to begin 3/14. Case #154001 on suspense till conclusion of #161035. DB
1/19/96	notm	Notices mailed. DB
1/25/96	tel	Gaetjens called, asked for another copy of hearing notices (she never received first ones). DB
1/26/96	misc	Took copies of 1/19 notices to Gaetjens' office. DB
2/16/96	notm	Notices mailed. DB
2/23/96	misc	Roberts came in office inquiring about hearing notices (confused because they referenced four different dates, and because other notices were sent previously). Explained there were four because County felt that much time was needed, and this second bunch of notices were reminders. DB
3/4/96	canx letm	Per WS, cancelled 3/14 and 3/15 hearing dates. He will be on vacation 3/15-22, so 3/15 should never have been scheduled. He prefers to begin hearing on 3/28, after his vacation. (No hearing time beyond 3/29 will be reserved at this time.) Letter mailed to Roberts and Gaetjens, copy of Fassell. DB
3/4/96	misc	Roberts came in last week (neglected to record at the time) to inquire about procedures for having hearing postponed. Told her to file written request and HO would decide; that there are no guidelines in the County Code about set-overs. DB
3/13/96	tel	Terry Lee called on behalf of Roberts inquiring about 3/14 hearing and Roberts' letter requesting set-over. I told him we never received any letter from Roberts; explained about our cancellation of the 3/14-15 hearing dates because of WS' vacation and letter mailed 3/4 to Roberts, Gaetjens, Fassell. DB
3/14/96	letr	Rcvd 2 faxes -- one from Roberts, one from Lee, both requesting 60-day set-overs. (NOTE: Lee's letter references 154001, but I assume he means 161035, since that is the case that was previously scheduled for hearing on 3/14/96. Also, from the content of both letters, it appears neither Roberts nor Lee was aware that the 3/14-15/96 hearing dates have been cancelled.) DB

3/14/96	misc letm	Dianna came in for a 1:30 hearing; did not receive DB's letter of 3/4 stating 14 th was cancelled--said she had mail stolen : at that time as did others in Gresham. Also, we did not receive certified letter from her she said she sent so I checked with BGS; was not on their log but letter was in their possession as rcvd 3/11; we did not get notice that we had any certified mail. Also advised Dianna (per draft of WS's letter to her) that we would not allow set-over as per Terry's request; she wanted me to share her certified letter with WS before he made decision about set-over. Showed WS her letter; he said he would not set over. Letter denying set-over mailed. RY
3/15/96	misc	Since Ruth was unable to get the cc copies of the 3/14 letter in the mail, I delivered Gaetjens' copy and faxed Fassell's today. DB
3/20/96	letr letm	Rcvd letter from Roberts via fax, with letters Roberts to Fassell and Roberts to DeMaster. (2nd page of latter not received.) Faxed letter to Roberts, Fassell, and Gaetjens. Also sent copy of 3/14/96 letter to Gaetjens at her request. DB
3/21/96	letr letm	Rcvd faxed note and letter from Roberts requesting copies of anything mailed to her in March. Faxed copies of 3/14/96 and 3/4/96 letters to Roberts. DB
3/25/96	letm	Letter faxed to Roberts, Fassell, and Gaetjens. Hearing to proceed as scheduled. DB
3/27/96	letr	Rcvd letter via fax from Roberts. DB
3/27/96	letr letm	Rcvd letter via fax from Roberts, with attachment. Reply faxed to Roberts, Fassell, and Gaetjens. DB
3/29/96	misc	Hours in hearing to date -- 3-1/4 on 3/28, 4-3/4 on 3/29/96. DB
4/1/96	misc	Roberts came in, ordered copies of hearing tapes from 3/28-29; paid \$35.00 cash (receipt #3599). DB
4/3/96	letr	Roberts faxed request for postponement, attaching copy of 3/29/96 letter from Jean DeMaster. Per WS, he will consider the request at the next hearing date of 4/5. DB
4/3/96	letr tel	Copy of letter Roberts to Fassell rcvd via fax; references hearings on 4/5 and 4/25-26. Gaetjens, after rcvg copy of same letter, called to clarify hearing dates, which are 4/5 and 19; 4/25-26 are backup only at this time (she hadn't heard reference to 4/25-26). Called Roberts and told her tapes were ready to be picked up. Also clarified hearing dates (she hadn't heard mention of 4/19). DB
4/4/96	misc	\$35 sent to Diane in Auditor's Office to deposit. DB
4/5/96	misc	Roberts came in, paid \$10 cash (receipt #3600) for copies of today's hearing tapes. DB
4/5/96	tel	Rcvd phone call from Roberts at 11:15 a.m. today re: fax to request set-over (rcvd copy certified mail today also); read her computer notes from 4/3/96 that indicated that WS would take set-over under advisement at today's hearing. RY
4/9/96	tel	Called Roberts, left message tapes were ready to be picked up at our office. DB
4/10/96	letr	Rcvd via fax letter from Roberts with attachments. (First transmission at 16:08 was "incomplete"; second followed at 16:17 p.m.) DB
4/11/96	letr	Rcvd original of letter and attachments faxed yesterday. DB
4/11/96	tel	Roberts called, told RY she needed another copy of 3/28/96 tape #1 as she accidentally erased first copy. Made the copy, called and told her she could pick it up. DB
4/15/96	letr	Rcvd letter from Sheen Wu, County Counsel's office, with copy of 4/4/96 letter DeMaster to Roberts. No action necessary. DB

4/16/96	letm	Letter faxed to Roberts (and Fassell), hand-delivered to Gaetjens. Per RY, she called Roberts and confirmed receipt of letter, as our fax confirmation said it was not completed. DB
4/16/96	letr	Rcvd copy of letter Roberts to Laurence Kressel, Mult. Co. Counsel. No action necessary. DB
4/16/96	letr	Rcvd letter from Roberts. DB
4/17/96	tel	Gaetjens calls, said he never rcvd copy of 4/16 letter. Advised her it had been hand-delivered to her office. DB
4/19/96	docr	Rcvd witness list from Roberts via fax. Later, motion from Gaetjens was delivered. DB
4/22/96	letr	Rcvd letter with attachments from Roberts. Called, told her 1st page was unreadable. She later re-faxed, and I discarded unreadable page. DB
4/22/96	letr	Rcvd various faxes from Roberts. Ruth called her several times because some pages were unreadable. Eventually, we rcvd: 4/17 2-pg letter to WS and Gaetjens; 4/18 2-pg letter to Barbara Clark; and 5-pg motion in response to Gaetjens 4/19 motion. Fax cover sheets and confirmations and duplicates documents were discarded. DB
4/23/96	misc	Per RY, Roberts came in to review file, got some photocopies, paid \$5.00 cash (apparently no receipt was written) for copy of 4/19 hearing tape (which RY made for her). Also had questions re. hearing procedures -- RY referred her to Mult. Co. Code. DB
4/24/96	docr	Rcvd motion to remand from Roberts. DB
4/26/96	letr tel	Rcvd letter via fax from Roberts with doctor's slip indicating 1-week postponement appropriate. WS said to re-set for 5/9-10 if parties are available. Called Fassell -- she is available. Left message for Gaetjens to call when she returns from vacation. DB
4/29/96	notm	Notices mailed. DB
4/29/96	tel hrgs	Talked to Gaetjens and Roberts re. hearing 1:30 on 5/9 and 9:00 on 5/10. OK with Gaetjens; Roberts indicated if doctor released her. (I pointed out that 5/9-10 was a 2-week delay, and her doctor's slip specified a 1-week delay.) Hearing so scheduled. Left message for Fassell. DB
5/3/96	letr letm	Rcvd letter with attachments from Roberts via fax. Reply mailed, copies to Gaetjens and Fassell. DB
5/8/96	docr	Rcvd fax of doctor's slip from Roberts. Took copy to Gaetjens. DB
5/8/96	tel	Per WS, called Gaetjens (who discussed briefly with WS) and Roberts (left VM message 3:32 pm) that he wants to see everyone tomorrow at 1:30 pm to decide how to proceed with the case; and that Roberts should send a representative if unable to attend personally. DB
5/9/96	misc	Roberts came in, purchased copies of 4/25/96 and 5/9/96 hearing tapes -- \$10.00 cash (receipt #4008). DB
5/10/96	letr	Rcvd letter from Gaetjens, and faxed copy from Roberts of 4/20 letter to Jean DeMaster. DB
5/10/96	notm	Notices mailed. DB
5/13/96	letr	Rcvd letter via fax from Roberts and letter from Gaetjens. WS sent fax to Roberts (with cc to Gaetjens and Fassell) to be prepared on 5/17 to proceed with hearing. RY
5/16/96	letr	Rcvd additional copy of 5/13 letter from Roberts with 2-page addendum. DB
5/20/96	notm	Per WS, faxed (did not mail) notices to Fassell and Gaetjens. COULD NOT (4 tries!) get fax'd notice through to Roberts. DB
5/21/96	misc	Hearing time to date: 3/28 - 3 hrs.; 3/29 - 5 hrs.; 4/5 - 2.5 hrs; 4/19 - .5 hr; 4/25 - .5 hr.; 5/9 - .5 hr; 5/17 - 6.5 hrs; 5/21 - 2.5 hrs --- total of 21 hours in hearing. DB

5/21/96	misc	Roberts came in office after hearing, requested copies to hearing tapes from tod and 5/17/96 hearings. Paid \$30.00 via check #9068. Db
5/22/96	misc	\$30.00 check sent to Diane in Auditor's Office to deposit. DB
5/22/96	misc	Ruth made tape copies, called Roberts to tell her they could be picked up. DB
5/24/96	misc	Roberts sent Transerv to pick up tapes. DB
5/28/96	docr	Rcvd 4 faxes from Roberts: 5-pg motion to strike with attachments; 1-pg certificate of service of same; 1-pg letter requesting additional time; and 9-pg motion to disqualify with cert. of service. DB
5/28/96	docr	Rcvd closing argument from Gaetjens. DB
6/14/96	ordm	Order mailed. RY
6/25/96	Misc	Per WS, he spent 30.5 hours in hearings and 40 hours out of hearings.
4/28/93	db	

May 29, 1996

VIA FAX 823-4347

SECOND REQUEST

William W. Shatzer
HEARINGS CODE OFFICER
City of Portland
1120 S.W. 5th, Rm. 1017
Portland, OR 97204

Dear Mr. Shatzer:

RE: APPEAL HEARING # 161035 - DIANNA J. ROBERTS - ACH


With all due respect Mr. Shatzer, I request an additional week to complete my Closing Arguments. With reference to my first request on May 27th, I phoned your Hearings Office Clerk, Darla Broberg, and she indicated you would not be looking at any requests or correspondence until today.

I entered that which I was able to complete without the assistance of the written transcript on May 28th, as per your instructions. May I remind you that the *'attorney'* for Appeal Hearings 154115 and 154134 received two (2) week to prepare their Closing Arguments.

May I please have your response as soon as possible?

Respectfully,

ROSEWOOD CARE, INC. (Est'd 1985)


Dianna J. Roberts
Owner/Manager

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MAY 29 1996 *DB*
HEARINGS OFFICE

2
05/29/96 06:29

TX/RX NO.1455

P.002

Lucille testified that she was not allowed to sign the medication charts -- that I insisted she sign them with my initial D.R. This is not true. On September 5, 1995, Mary Fassell, Sanctions Specialists with Aging Services Division photocopied three (3) notebooks full of resident, staff, and house records. If this were true, why didn't Mary Fassell enter these medication charts for exhibit. **It is the position the Defendant that, either Mary was exceeding her authority by photocopying patient records without their written permission, or Mary found nothing out of order in the records.** The records of Dianna J. Roberts have, repeatedly, been noted as **EXCEPTIONAL!** One such recent report by Judy Fowler, an Aging Services Division investigator, was entered for exhibit. Carole Isaman, Dianna Roberts' Licensing Agent, made the same observation.

Mary Fassell testified that there have been seven (7) former employees of Dianna J. Roberts, who have complained in the past, but whom she could not locate. It is inconceivable for Mary expects anyone to believe that! Before anyone can work in an Adult Foster Care Home, a Criminal Records Check is done along with Applications for Substitute Caregiver and/or Resident Manager. These forms require the applicant to list their social security number, driver's license number, date of birth, former employees of the past five (5) years, three (3) personal references, just for starters!

Page 8 Closing Arguments

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How much information do you does it take to find someone?

* * * * *

Let's move on to Multnomah County Counsel's list of witnesses on the payroll of the Aging Services Division:

This list contained six (6) names:

- 1) Tom Glenn
- 2) Melinda Maxwell
- 3) Pam Slaughter
- 4) Mary Fassel
- 5) Jean DeMaster
- 5) Heather Stewart

- 1) Tom Glenn testified he was hired by ASD in September 1995. Dianna J. Roberts and Mr. Glenn became acquainted while was both were members of the Portland/Multnomah Commission on Aging. Dianna complained, vehemently, about the truthfulness of his testimony during a conference on June 29, 1995. When she requested that an Ombudsman visit Flonnie McClane, during her stay at Florica Hamalgean's Adult Care Home, she was told they would send Tom Glenn. After explaining, her reasons for them to send someone other than Tom Glenn to which they agreed upon, sadly that agency demonstrated its lack of integrity and sent who else but, TOM GLENN! Tom, came back with seven (7) typed complaints against Dianna Roberts' home from this person who is mentally dysfunctional!

Page 9 Closing Arguments

* * * * *

Dianna Roberts, subsequently, learned that Mr. Al Gantenbein had accompanied Tom Glenn on this visit. In speaking with Mr. Gantenbein, he was shocked to learn that she had commenced the visit. Had the Hearings Officer allowed this witness to be called, it is her position that the report may have appeared under a new light. It was Mr. Glenn's testimony that Flonnie retracted some earlier information she had given him regarding monies being borrowed from her. It would have been nice to been able to hear Mr. Gantenbein's side of the interview. He has stated that Mr. Glenn prepared the report of the visit. This presents a second time that Mr. Glenn has perjured himself in defense of himself and the Aging Services Division. The third time would be regarding a statement Dianna requested he notarize. Mr. Glenn testified that the content of that statement was regard the firing of several ASD staff. This original statement or affidavit was presented into evidence and accepted for the record or as an exhibit. It was a memorialization of events -- nothing else. Since, by this time Mr. Glenn had become a member of the ASD staff, it was evident it would be impossible for him to sign the statement. He further testified that Dianna asked him to back date the statement and that she intimidated him.

This is simply not true. Dianna never requested that he back date anything!

Page 10 Closing Arguments

This would be unethical and the subject was never entertained or addressed during any conversation with Mr. Glenn. As far as intimidating, Mr. Glenn

testified that their last phone conversation was approximately 45 minutes long. It seems unlikely that you could keep someone on the phone for 45 minutes by intimidation! The integrity of Mr. Glenn surely must come into question -- an employee of ASD of less than 8 months! **Mary Fassell signed the Letter of Revocation on November 28, 1996. She had placed sanctions restricting admissions to Dianna's home beginning on August 18, 1995 a month before Tom was even hired by Aging Services Division!**

- 2) Melinda Maxwell was the second witness called who is on the payroll of the Aging Services Division. She testified she was hired in August, 1995 (9 months on the job). Again, this is the very month Mary signed the letter restricting admissions to Dianna's home. What can she testify to that would bring Mary to place such a devastating sanction on a home? **NOTHING, ABSOLUTELY NOTHING!!!**

She did, however, manage to perjure herself on three (3) issues:

- a. There was never a heated mattress pad or electric blanket on Flonnie McClane's bed. This is untrue. There has been a heated mattress pad on Flonnie's bed for 6 years, which Dianna purchased for her! The controls of this pad were taped to a comfortable temperature

in the on position 24-hours a day.

Had the Hearings Officer not limited Dianna's testimony to 8 hours and zero witnesses, she would have called several witnesses to discount Melinda's testimony.

- b. It was also Melinda's testimony that there was a commode in Flonnie's room. In the 6 years Flonnie occupied that bedroom, nor in the 12 years of operation of this home has there ever been a need for a commode in that bedroom. There is a private bathroom off that "master" bedroom. Melinda may very well never been aware of that fact. To my knowlege, Melinda was never in Flonnie's bedroom.

Again, had the Hearings Officer not limited Dianna's testimony to 8 hours and zero witnesses, She would have called several witnesses to discount Melinda's testimony.

- c. Melinda further testified that she had seen Flonnie walk without her

walker even though she was paralyzed on her left side. One would expect this to be physically impossible. Flonnie has been dependent on her walker for 3-4 years.

Again, had the Hearings Officer not limited Dianna's testimony to 8 hours and zero witnesses, she would have called several witnesses to discount Melinda's testimony.

INCOMPLETED

Lastly, one must take into consideration why Multnomah County's Counsel elected not to call Jean DeMaster, Heather Stewart or Mary Fassell to testify -- all of whom were on her original witness list!!!

The Defendant is presenting the above Closing Arguments under protest, within one (1) week as ordered by the Hearings Officer, Mr. William W. Shatzer, as he has not responded/answered her request for an additional week. A phone call to the Hearings Office Clerk, Darla Broberg, indicated the Hearings Officer **"was not looking at correspondence"** from the Defendant, even though she informed him of the request. However, Appeal Hearings #154115 and 154134 were granted two (2) weeks to present their Closing Arguments.

Page 13 Closing Arguments

THE OPERATOR OF AN ADULT CARE HOME CANNOT BE HELD **"RESPONSIBLE FOR THE PROPER OPERATION OF THE HOME"**, WHEN THEY DO NOT HAVE THE ASSISTANCE/ COOPERATION FROM THE AGING SERVICES DIVISION STAFF. IN THIS SITUATION, THE DIVISION, ITSELF, CREATED THE CIRCUMSTANCES WHICH PRECIPATED THE COMPLAINTS SITED FOR THE REASON FOR CLOSURE, AS WELL AS THE HOSTILE ATMOSPHERE BETWEEN THE DIVISION AND THE DEFENDANT AND MUST ACCEPT ACCOUNTABILITY. THE DIVISION ALSO WAS THE PRIMARY SOURCE OF THE COMPLAINTS RECEIVED IN 1995.

THERE IS NO QUESTION THAT THIS SITUATION IS THE BASIS FOR THE REVOCATION OF MY LICENSE.

A SECONDARY ISSUE INVOLVES THE MULTNOMAH COUNTY **SUBSIDIZED** ADULT FOSTER CARE HOMES BUILT BY NORTHWEST HOUSING ALTERNATIVES, INC. OPERATORS THROUGHOUT MULTNOMAH COUNTY WERE ENRAGED WHEN I EXPOSED THESE HOME. WITH A **30% PLUS** VACANCY RATE, NO ONE FELT THESE HOUSES WERE **'NEEDED'**, AS THE AGING SERVICES DIVISION MAINTAINED. THIS EXPOSURE BROUGHT

**THE RATH OF THE ENTIRE AGING SERVICES DIVISION DOWN
UPON ME! JEAN DEMASTER MADE SURE I WAS NOT ALLOWED
TO CONTINUE MY POSITION ON THE PORTLAND/MULTNOMAH
COMMISSION ON AGING AS A RESULT OF THIS 'WHISLE BLOWING',
WHICH, APPARENTLY, IS HOW THE DIVISION LOOKED AT IT.
(WHEN CONSIDER THE STANDING ROOM ONLY CROWD AT THE NEXT
MONTHLY PROVIDERS' MEETING.)**

**JEAN DEMASTER FURTHER MADE CERTAIN THAT THE DEFENDANT
WAS NOT ALLOWED TO SIT ON THE NEW RULES RE-WRITE
COMMITTEE EVEN THOUGH SHE HAD THE BACKING OF THE STATE-
WIDE ADULT FOSTER CARE ASSOCIATION, BY SIMPLY NOT
ACKNOWLEDGING OR RESPONDING TO THE LETTER. THIS
TECHNIQUE THE AGING SERVICES DIVISION HAS DEVELOPED NOT
GRANTING CONFERENCES OR RETURNING CORRESPONDENCE, BUT
RATHER TO JUST REVOKE THE LICENSE OF ANYONE WHO ATTEMPTS
TO STAND UP FOR THEMSELVES IS OPPRESSION IN THE MOST
BLATANT FORM AND MUST BE STOPPED.**

Page 15 CLOSING ARGUMENTS

Respectfully submitted.

By

Dianna J. Roberts

Dianna J. Roberts, Defendant
19390 N.E. Multnomah Ct.
Portland, OR 97230

cc: Catherine Gaetjens, Sr. Assist. County Counsel

Page 16 Closing Arguments

CERTIFICATE OF SERVICE

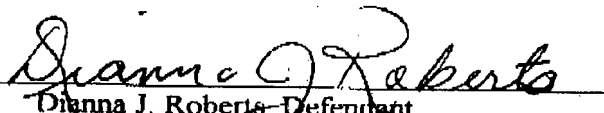
I, hereby, certify that on the 28 day of May, 1996, I served within the **CLOSING ARGUMENTS** on the individual listed below, by a telephone facsimile communication device to the number listed below, of which the printed confirmation of receipt is attached:

Wm. W. Shatzer
Code Hearings Officer
1120 S.W. 5th, Rm. 1017
Portland, OR 97204

FAX: 823-4347

cc: Catherine Gaetjens, Sr. Asst. County Counsel
Multnomah County Oregon
1120 S.W. 5th Ave., Suite 1530
Portland, OR 97204

FAX 248-3377


Dianna J. Roberts, Defendant
19390 N.E. Multnomah Ct.
Portland, OR 97230

***** ACTIVITY REPORT *****

RECEPTION OK

TX/RX NO.	1454	
CONNECTION TEL	666 9121	6614763
CONNECTION ID		
START TIME	05/28 16:36	
USAGE TIME	09'50	
PAGES	10	
RESULT	OK	

MULTNOMAH COUNTY ADMINISTRATIVE HEARING
FOR THE COUNTY OF MULTNOMAH
STATE OF OREGON

**In the Matter of Dianna Roberts' Adult
Care Home License Revocation**

**Adult Care Home Program
Multnomah County Oregon
Aging Services Division, Plaintiff**

vs.

Dianna J. Roberts, Defendant

APPEAL HEARING # 161035

CLOSING

ARGUMENTS

On this day the 28 day of May 1996, Defendant offers Closing Arguments on the following pages:

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MAY 28 1996
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Page 1 - Closing Arguments

One finds it difficult to present Closing Arguments when she had not received the opportunity to present her testimony, when the Hearings Officer has limited her testimony to a total of eight (8) hours, while hearing testimony over a four (4) day period from the Multnomah County Counsel for the Aging Services Division of Multnomah County Oregon. Of these four (4) days of testimony, and five (5) witnesses presented against Dianna J. Roberts, the Defendant, the Hearings Officer disallowed approximately 2 days (a total of 5 of the 8 witnesses presented) of this testimony as **not relevant**.

With these five (5) witnesses disallowed, that left two (2) remaining **NON-AGING SERVICES DIVISION** witnesses on the Multnomah County Counsel's Witness List. These two (2) remaining witnesses were former employees of Dianna J. Roberts, whom had been fired for good cause. This makes these witnesses not "reliable witnesses" as it is obvious both had phoned in complaints against Dianna J. Roberts **at the time they were fired**. These complaints, were not phoned in, "**IN GOOD FAITH**", but in blatant retaliation. MCAR 890-110-200 addresses "Retaliation Against Complainants". What about retaliations from fired employees? Adult Care Home Operators cannot live in fear of firing an employee, **BECAUSE** they **ALL** know the system, just because this employee will phone in '**a complaint**'. Otherwise, Operators may be forced to keep on an employee who may be **totally unqualified OUT OF FEAR?!**

MCAR 890-110-230 The complainant shall have immunity from any civil or criminal liability with respect to the making or context of a complaint **'MADE IN GOOD**

Page 2 CLOSING ARGUMENTS

FAITH.

Lucille Salmeier needed this job desperately! (Ref: Tax liens on her home for back taxes.) Yes, she was very upset, but she didn't have to loose her job! Had Betty Glantz and John Chabin not moved Flonnie McClane, this situation would have never developed.

Had Mary Fassell not advised Betty Glantz that I could not refuse admittance to a nurse and would just have to accept Peggy Brewer, even though I had requested a geriatric psychiatric nurse for Flonnie McClane. Another Operator had informed me that Peggy Brewer had misrepresented situations in her home, and had suggested to me that perhaps I should request a new nurse as she had done. Although this other Operator received a new nurse, Mary Fassell declined to grant my request. Keep in mind, I was not simply requesting a new nurse, but a geriatric psychiatric nurse. Although I, repeatedly, requested this not knowing Peggy's background, no one at East Branch of Aging Services, i.e. Bunny Harold or Betty Glantz would assusre me that she did, in fact, have the experience necessary to deal with a person with an untreatable Borderline Peronality Disorder.

Page 3 Closing Arguments

As a regulatory agency, the Aging Services Division has the discretion to file these type of complaints to 'use' against an operator, or file them where they rightfully belong -- in the waste basket! Unfortunately, the Aging Services Division prefers to waste taxpayers dollars 'investigating' easily distinguishable false and malicious allegations, and most often times the only possible source of information to SUBSTANTIATE these allegations is a frail, confused, mentally impaired or disabled elderly person. These complaints are often SUBSTANTIATED with no hard facts. The investigators often confuse the patients and family members in their effort to protect the patients and/or source of the complaints by referring to them as **numbers!**

Both of these witnesses have severe credibility problems. This is evidenced by the 7-page Investigative Report conducted by Windwalker Private Investigations and offered into exhibit. Had the Hearings Officer not allowed the County Counsel's Motion to Strike my Witness List, Kyle Irwin would have been present to give personal testimony regarding his investigation.

Witness #1 - Ollie Mae Holyfield

Report revealed that Ollie worked only two (2) years for the Hyatt Regency in Phoenix, Arizona. Ollie's application for employment was offered into evidence by Dianna J. Roberts, but the Hearings Officer refused to allow it to be "**marked and entered for the record**". This application was included in the 3" White 3-Ring Notebook. That application dated 6-18-92 reads that she worked seven (7) years

Page 4 Closing Arguments

for the Hyatt Regency! If she will perjure herself on an Employment Application,

can anything she says be credible?

It continues with..."history of lawsuits, deceitful antagonizing behavior towards former landlords and roommates...Ollie went around to Diane Shoemaker's neighbors, a former landlord, bad-mouthing Shoemaker...attractive person and can put up any face she wants ...sweet and innocent one minute and a witch the next...drank almost every night... impossible to get along with...is the devil herself."

It is the Defendants personal knowledge that Ms. Holyfield stayed in contact with her Licensing Agent, Carole Isaman since 1992, with the intent of testifying against her just as soon as the opportunity arose. Ms. Holyfield filed claims with the Wage & Hour Division and with Small Claims Court against the Defendant. Ms. Holyfield did not prevail in either of these claims. She is, currently, a resident of the Renton, Washington area. One wonders at whose expense did she travel to Portland, once again, in retaliation. Had the Hearings Officer allowed into evidence the "3-Ring Notebook" he would have found an affidavit from another employee of Dianna J. Roberts stating that Ms. Holyfield doubled up her fist and threatened to flatten her. Assistance from the City of Gresham Police Department was required to escort her off the premises

the day she was dismissed, because she refused to leave... "she wasn't ready." (An employee of less than 6 months... dismissed for good cause... this being the expected admittance of two (2) new patients who required more experienced, skilled care than Ollie could provide.) But, Ollie had her own agenda/plan and she just "wasn't ready" to leave!

Witness #2 - Lucille Alice Salmeier

Another former employee of Dianna J. Roberts who was fired with good cause, as the Affidavit from Mrs. Georgia Purcell revealed. Ms. Salmeier was swearing in the presence of Dianna's patients. She was upset because Flonnie McClane had been returned to Dianna's home the previous day. Flonnie was upsetting the entire household that day. It's understandable how Flonnie could upset everyone, since her phone had been disconnected while she was gone, and she was on the phone in the living room ALL DAY with her sisters, son and daughters. This was her habit and/or pasttime. Lucille was not accustomed to all this going on in the living room -- nor should she have had to be subjected to it. Had Aging Services Division not moved Flonnie, she would have had her phone in her room. She, also, would not have been upset in the first place, had Aging Services not moved her and then moved her back in 21 days -- just enough time to upset her routine of the past 6 years. It took many years to get this routine established. This uproar was fully expected by

Dianna, however, Lucille was totally surprised with her actions and did not know how to handle the situation. On the other hand, Dianna J. Roberts has dealt with Flonnie's untreatable Borderline Personality Disorder' for 6 years! Unfortunately, she was out of town for the day, as she had not anticipated Flonnie's return the previous Friday evening. This entire scenario could have been prevented, had Aging Services Division NOT moved Flonnie unannounced, **AGAINST HER PHYSICIAN'S ORDERS AND AGAINST HER DAUGHTER, JACKIE'S VEHEMENT DEMANDS.**

Windwalker's report goes on to read that he spoke with Lucille's former employers: Joanie and Ed Obrist. Mr. Obrist is Dianna J. Roberts former father-in-law. He is in poor health and was not expected to testify at this hearing. However, the Obrists' expressed great alarm when they learned Dianna had hired Lucille. They informed Dianna that she had been fired from every place in town for theft. Further complications arose with Lucille because she turned out to be a relative of one of Dianna's patients. Serious repercussions developed as a result of this relative relationship, i.e., favoritism and communications with this patient's family members deteriorated after her having lived with Dianna for 8 years with no previous problems!

Lucille was, also, known by the family of another resident. This family member, also, expressed some concern about her taking care of her mother.

Lucille testified that she was not allowed to sign the medication charts -- that I insisted she sign them with my initial D.R. This is not true. On September 5, 1995, Mary Fassell, Sanctions Specialists with Aging Services Division photocopied three (3) notebooks full of resident, staff, and house records. If this were true, why didn't Mary Fassell enter these medication charts for exhibit. **It is the position the Defendant that, either Mary was exceeding her authority by photocopying patient records without their written permission, or Mary found nothing out of order in the records.** The records of Dianna J. Roberts have, repeatedly, been noted as **EXCEPTIONAL!** One such recent report by Judy Fowler, an Aging Services Division investigator, was entered for exhibit. Carole Isaman, Dianna Roberts' Licensing Agent, made the same observation.

Mary Fassell testified that there have been seven (7) former employees of Dianna J. Roberts, who have complained in the past, but whom she could not locate. It is inconceivable for Mary expects anyone to believe that! Before anyone can work in an Adult Foster Care Home, a Criminal Records Check is done along with Applications for Substitute Caregiver and/or Resident Manager. These forms require the applicant to list their social security number, driver's license number, date of birth, former employees of the past five (5) years, three (3) personal references, just for starters!

FAX COVER LETTER

DATE 5.28.96

TO: Wm. W. Shatyr FAX 823-4347
PHONE _____

FROM: DIANNA ROBERTS - FAX 1503/661-4763 (On 8:00 a.m. to 5:00 p.m.)

PHONE 1503/666-9121

(IF YOU HAVE A PROBLEM SENDING
THE FAX OR ARE TRYING TO SEND ONE
AFTER 5:00 P.M., PLEASE CALL 666-9191
AS I OFTEN TURN IT OFF AT 5:00 P.M.)

PAGES 7 INCLUDING COVER LETTER

COMMENTS _____

MULTNOMAH COUNTY ADMINISTRATIVE HEARING
FOR THE COUNTY OF MULTNOMAH
STATE OF OREGON

**In the Matter of Dianna Roberts' Adult
Care Home License Revocation**

**Adult Care Home Program
Multnomah County Oregon
Aging Services Division, Plaintiff**

vs

Dianna J. Roberts, Defendant

APPEAL HEARING # 161035

MOTION TO STRIKE

TESTIMONY OF

CAROLE ISAMAN

On this day the 27 day of May 1996, Defendant moves the Code Hearings Officer to strike the testimony and exhibits presented by Carole Isaman as not listed on the Multnomah County Counsel's Witness List.

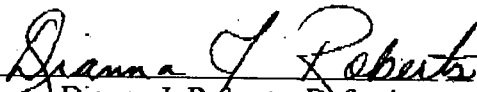
Page 1 - Motion to Strike Testimony of Carole Isaman

RECEIVED
MAY 28 1996
HEARINGS OFFICE

Defendant offers photocopies of the Plaintiffs' Witness List attached.

DATED this 27 day of May, 1996

Respectfully submitted,

By: 
Dianna J. Roberts, Defendant
19390 N.E. Multnomah Ct.
Portland, OR 97230

Attachments (2)

cc: Katie Gaetjens, Sr. Assist. County Counsel

Page 2

ACHP witness is non ACHP & ff:

1 Lucille Sahlmeier

2 Ollie Hollyfield

~~Dane Hanagan~~

~~Hedena Hanagan~~

~~Peggy Brewer~~

~~Faye Brown~~

~~Bill Ryan~~

The Adult Care Home Program witnesses will be

Tom Glenn ✓

Merinda Maxwell ✓

~~Pam Slaughter~~

Mary Cassell

Sean DeMaster

Heather Stewart

hire 9/95

8/95

10/95

CERTIFICATE OF SERVICE

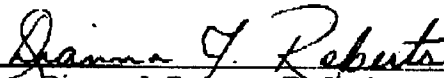
I, hereby, certify that on the 27 day of May, 1996, I served within **MOTION TO STRIKE THE TESTIMONY OF CAROLE ISAMAN** to the individual listed below, by a telephone facsimile communication device to the number listed below, of which the printed confirmation of receipt is attached

Wm. W. Shatzer
Code Hearings Officer
1120 S.W. 5th, Rm 1017
Portland, OR 97204

FAX: 823-4347

cc: Catherine Gaetjens, Sr. Asst. County Counsel
Multnomah County Oregon
1120 S.W. 5th Ave., Suite 1530
Portland, OR 97204

FAX 248-3377



Dianna J. Roberts, Defendant
19390 N.E. Multnomah Ct.
Portland, OR 97230

CERTIFICATE OF SERVICE

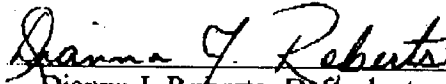
I, hereby, certify that on the 27 day of May, 1996, I served within **MOTION TO STRIKE THE TESTIMONY OF CAROLE ISAMAN** to the individual listed below, by a telephone facsimile communication device to the number listed below, of which the printed confirmation of receipt is attached:

Wm. W. Shatzer
Code Hearings Officer
1120 S.W. 5th, Rm. 1017
Portland, OR 97204

FAX: 823-4347

cc: Catherine Gaetjens, Sr. Asst. County Counsel
Multnomah County Oregon
1120 S.W. 5th Ave., Suite 1530
Portland, OR 97204

FAX 248-3377



Dianna J. Roberts, Defendant
19390 N.E. Multnomah Ct.
Portland, OR 97230

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MAY 28 1996
HEARINGS OFFICE

May 27, 1996

VIA FAX 823-4347

Mr. William W. Shatzner
HEARINGS CODE OFFICER
City of Portland
1120 S.W. 5th. Rm. 1017
Portland, OR 97204

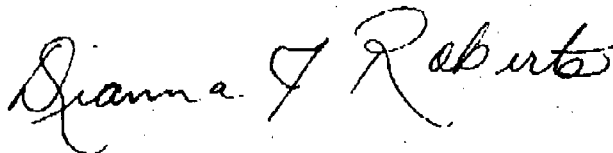
Dear Mr. Shatzner:

RE: APPEAL HEARING # 161035 - DIANNA J. ROBERTS - ACH

With all due respect Mr. Shatzner, I request an additional week to offer my Closing Arguments. Due to the holiday, the court reporter has been unable to complete the written transcript of the hearings. Had you responded immediately to my request for a written transcript of the hearing tapes; that I would have to arrange for them to be transcribed myself, I would have sent them to a private court reporter service at that time.

VERY TRULY YOURS,

ROSEWOOD CARE, INC. (Est'd 1985)



DIANNA J. ROBERTS
OWNER/MANAGER

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MAY 28 1996
HEARINGS OFFICE

MULTNOMAH COUNTY ADMINISTRATIVE HEARING
FOR THE COUNTY OF MULTNOMAH
STATE OF OREGON

**In the Matter of Dianna Roberts' Adult
Care Home License Revocation**

**Adult Care Home Program
Multnomah County Oregon
Aging Services Division, Plaintiff**

vs.

Dianna J. Roberts, Defendant

APPEAL HEARING # 161035

SECOND MOTION

FOR HEARINGS OFFICER

TO DISQUALIFY SELF

On this day the 27 day of May 1996, Defendant moves the Code Hearings Officer to disqualify himself in the above matter for the reasons indicated on the following pages:

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Defendant moves for Wm. W. Shatzer, City of Portland Code Hearings Officer to disqualify himself from further involvement in the Appeal Hearing #161035 of Dianna Roberts vs. Multnomah County Adult Care Home Program of Aging Services Division. Mr. Shatzer has demonstrated extreme prejudice continuously throughout the subject appeal hearing. Defendant alleges a conspiracy exist between Wm. W. Shatzer and the Aging Services Division through Mary M. Fassell and Catherine Gaetjens.

Mary M. Fassell restricted admissions to the Defendants home on August 18, 1995. This was long before any complaints submitted into evidence for exhibit or included with the November 28, 1995 Letter of Revocation were substantiated. None of the complaints submitted would have existed were it not for Mary Fassell's refusal to grant the Defendant's request for a qualified geriatric psychiatric nurse. The reasoning behind this refusal stem from the 1992 letter of apology the defendant received from Mr. Stephen Balog at the time Mary Fassell threatened to fine the Defendant \$1,000.00 for being uncooperative simply for requesting that a request be made in writing.

The Adult Care Home Program removed the Defendant from the Registry of Adult Care Homes in December, 1995 and further correspondence between The Adult Care Home Program and the Defendant ceased. Referrals to her home were discontinued early in 1995 due to her

Page 2 - SECOND MOTION for Hearings Officer to Disqualify Self

request for a qualified nurse for one of her patients', Flonnie McClane. As a result of being removed from the registry, the Defendant has not received any notices of meetings, notices of classes required for relicensing, the monthly newsletter or her license renewal application normally mailed in the first of April (60 days prior to license expiration). The Defendant was told this was standard procedure for the Adult Care Home Program. Why would such a '*procedure*' be developed; unless, of course, the ACHP knew in advance there was no chance of a Defendant prevailing in an Appeal Hearing? Providers have been know to be encouraged to request an Appeal Hearing by the ACHP. These same providers sensed something amiss and declined to do so. What happened to due process?

The Multnomah County Adult Care Home Program and Aging Services Division through Heather Stewart and Sheen Wu have maliciously slandered the Defendants' reputation as an Adult Care Provider. The Defendant has received reports that staff at the Adult Care Home Program office and the East Branch Division of Aging Services Division have given slanderous information over the phone to numerous prospective patients, encouraging these patients to either not move into the Defendant's AFH, or encouraged to move out on 2 different occasions involving 2 different patients, i.e. Vivianne Blake and Pauline Alvarez.

Why has Mary Fassell been so confident that the Defendant's home would not be relicensed? Because these hearings are a sham -- a pretense, solely to give the '*appearance*' of a 'fair and just

Page 3 - SECOND MOTION for Hearings Officer to Disqualify Self

hearings process for the revocation of Adult Care Home Licenses.' Why is the county so sure of itself? When a conspiracy exist, those involved act overly confident -- with the knowledge that the Hearings Officer will back any decision made by their co-conspirator or co-conspirators.

These overly aggressive actions against the Defendant signifies the County has no intention of allowing her to remain in operation. They, again, can only be this confident when involved in a conspiracy. After studying the contract under which Mr. Shatzer accepts appointments, he accepts no responsibility for his decisions and the Aging Services Division even protects him from any legal actions brought against him by agreeing in the contract to pay for his legal expenses. With this arrangement, Mr. Shatzer accepts no accountability.

The Defendant has commissioned 13 letters requesting conferences and hearings. The MCAR's dictate that the ACHP schedule a conference within 10 days after receiving a request. An untold number of requests went unanswered. Another signification that the ACHP was planning to allow the Hearings Officer to follow their direction with revoking the Defendant's license. Being in direct violation of their own MCAR's the Hearings Officer is required to remand the hearing back to the agency. This request was made in the form of a motion on two (2) separate occasions. The Hearings Officer both time denied the motions.

Page 4 - SECOND MOTION for Hearings Officer to Disqualify Self

On February 27, 1996, the Manager of the Adult Care Home Program stated in a public meeting that, "the provider never prevails in an Appeal Hearing." How could she know this unless a conspiracy existed? (Ref: Page 62 of the minutes transcribed of the meeting with the ROA Providers' Association)

The Appeal Hearings Officer has ignored the Defendants' orders from her Kaiser Permanente Health Care Provider to refrain from participating in any "formal hearings" for 30 days. He ordered not only the Defendants presence at Hearings, but also her participation, while under "acute stress". Defendant was threatened with a default decision, if she did not appear. During this appearance, Mr. Shatzer entered an order for the Defendant to sign a document prepared in advance by Ms. Catherine Gaetjens, Sr. Assist. County Counsel for Aging Services Division. The Defendant alleges a conspiracy existed between Ms. Gaetjens and Mr. Shatzer by way of his 'order for her to appear', as well his 'order for her to sign the document' under coercion.

Why else would the Adult Care Home Program so blatantly NOT respond to the Defendants three (3) different attorney's letters, or the Defendant's letters, unless they were certain 100% the hearings officer would back them as only parties involved in a conspiracy could be.

On May 9, 1996, Wm. W. Shatzer repeatedly referred to the Appeal Hearing #161035 of the defendant in a demeaning manner and referenced his duty to decide whether

Page 5 - SECOND MOTION for Hearings Officer to Disqualify Self

or not the defendant should be allowed to continue operating her Adult Care Home of the past 12 years with such low regard as: **'this thing'**.

To refer to the Defendant's license to operate an Adult Care Home, her livelihood and sole source of income for the past 12 years as, **'this thing'** signified his low regard not only for the Defendant but also her chosen profession.

Mr. Shatzer has denied **EVERY MOTION** presented by the defendant. By indicating that participants in Administrative Hearings are not subject to protection by the United States Constitution and Bill of Rights, it is the position of the Defendant that Mr. Shatzer's "character is thus marked by every act which may define a Tyrant; and is, thereby, unfit to rule..." (Ref: Congress July 4, 1776, The unanimous Declaration of the thirteen United States.) Mr. Shatzer violated the First Amendment Right of Freedom of the Press by denying the press the right to make a video taped recording of the Defendants' Appeal Hearing.

Wm. W. Shatzer deprived the Defendant of due process by limiting her witnesses and also limiting her testimony to only 8 hours. When the Defendant demanded equal time as the ACHP -- testimony over a four (4) day period, Mr. Shatzer denied

her request. It was, also, the Hearings Officer responsibility to accept documentation presented to be "**marked and entered for the record**"; i.e. a White 3" Notebook, containing affidavits, letters of reference, letters confirming phone conversations, and letters requesting conferences (390 pages) -- the basis for the Defendants' defense -- of which the Hearings Officer, now, has absolutely no conception, since the Defendants' testimony was restricted. **Unfortunately, he refused.**

Defendant further alleges Wm. W. Shatzer's rulings, demeaning mannerisms, and general character, or lack of, violates the State of Oregon's Bar Code of Ethics. A fair Hearings Officer would have no reason to disqualify any witnesses unless he was, in fact, protecting them and in conspiracy with them; i.e., Multnomah County Aging Services Division. It is the duty of a Hearings Officer to listen to testimony from **BOTH** parties in order to made an unbiased decision.


Mr. Wm. W. Shatzer simply has not fulfilled his contract with the people of Multnomah County.

Defendant moves that Mr. Wm. W. Shatzer, City of Portland, Code Hearings Officer, disqualify himself from further involvement with subject Appeal Hearing for purposes of demonstrating extreme prejudice as outlined above.

DATED this 27 day of May, 1996.

Respectfully submitted,

By:


Dianna J. Roberts, Defendant
19390 N.E. Multnomah Ct.
Portland, OR 97230

Page 8 - SECOND MOTION for Hearings Officer to Disqualify Self

cc: Catherine Gaetjens

CERTIFICATE OF SERVICE

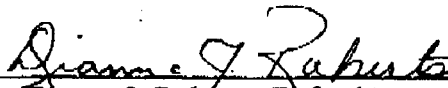
I, hereby, certify that on the 27 day of May, 1996, I served within **SECOND MOTION for Hearings Officer to Disqualify Self** the individual listed below, by a telephone facsimile communication device to the number listed below, of which the printed confirmation of receipt is attached:

Wm. W. Shatzer
Code Hearings Officer
1120 S.W. 5th, Rm. 1017
Portland, OR 97204

FAX: 823-4347

cc: Catherine Gaetjens, Sr. Asst. County Counsel
Multnomah County Oregon
1120 S.W. 5th Ave., Suite 1530
Portland, OR 97204

FAX 248-3377



Dianna J. Roberts, Defendant
19390 N.E. Multnomah Ct.
Portland, OR 97230

MULTNOMAH COUNTY ADMINISTRATIVE HEARING
FOR THE COUNTY OF MULTNOMAH

RECEIVED

MAY 28 1996 *DB*

In the Matter of
Dianna Roberts'
Adult Care Home License
Revocation

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No. 161035

Aging Services Department's
Closing Argument

HEARINGS OFFICE

INTRODUCTION

On November 28, 1995, the Aging Services Department notified Ms. Dianna Roberts that her Adult Care Home License would be revoked based on substantiated violations of the Multnomah County Adult Care Home Program (program) administrative rules. Ms. Roberts submitted a request for a hearing which took place in Portland on March 28, March 29, April 5, April 19, May 17 and May 21, 1996.

At hearing, the program presented extensive, primarily uncontested evidence that Ms. Roberts violated numerous rules involving resident rights, neglect of residents, failure to keep records, and a failure to demonstrate good judgment and character. Based on this evidence, Ms. Roberts' license should be revoked.

THE RULES VIOLATED AND THE SUPPORTING EVIDENCE

MCAR 890-020-400 states that in order to maintain a license, an operator must abide by certain standards. These standards include compliance with residents' rights and record-keeping requirements, as well as possession of good character and judgment. The following will outline the numerous violations that Ms. Roberts has committed in each of these areas.

Post-It™ brand fax transmittal memo 7671		# of pages ▶ 15
To <i>Dianna R.</i>	From <i>Darla</i>	
Co.	Co. <i>Hearings Ofc</i>	
Dept.	Phone # <i>823-7307</i>	
Fax # <i>666-4763</i>	Fax # <i>823-4347</i>	

A. Neglect:

All operators and caregivers must follow the Resident Rights standards. (MCAR 890-020-410). This means that they must not inflict, allow to be inflicted, or expose residents to neglect.

MCAR 890-015-660 defines "neglect" as:

"...any act or absence of action ... which causes or threatens to cause physical or mental harm to a resident and that is inconsistent with resident needs or prescribed resident care. Neglect includes, but is not limited to:

- (a) Withholding or failure to provide adequate food ... supervision, care or services necessary to insure the health, safety and well-being of a resident, or failure to supply adequate staffing necessary,
- (b) Failure to make a reasonable effort to discover what care is necessary to the well-being of a resident;
- (f) Withholding or failure to seek appropriate medical attention and care, or failure to direct staff or to provide adequate staffing necessary to seek appropriate medical attention and care".

Evidence presented in the hearing demonstrated that at least three different residents have been neglected while living under Ms. Roberts' care. Ms. Lucille Sahlmeier, former caregiver at Ms. Roberts' home, testified that when she arrived at work on the morning of April 13, 1995, Ms. Roberts told her that "Orla" had fallen the night before at 9 p.m. She then told Ms. Sahlmeier to lie if anybody asked when the fall occurred. Ms. Sahlmeier was to tell people that Orla fell at 3 am. (Testimony of Lucille Sahlmeier; Testimony of Melinda Maxwell). Although Ms. Roberts knew that Orla was incoherent and was unable to take her medication, Ms. Roberts did not check her vital signs; she did not call 911; she did not call a nurse or physician. In fact, Ms. Roberts went to Salem for the day. (Testimony of Lucille Sahlmeier; Testimony of Melinda Maxwell), Ms. Roberts returned to the home late that afternoon. At that time, Ms. Sahlmeier urged Ms.

Roberts to get help. They called 911 at about 4 p.m. (Exhibit 22). Because of Ms. Roberts' apparent lack of concern, Orla did not receive any medical attention until approximately 19 hours after she fell. (Exhibit 22). Orla was subsequently admitted into the hospital where she underwent hip surgery for a fracture of the right hip. The diagnoses on this admission included infarcts, congestive heart failure, aspiration pneumonia, hyponatremia and hypertension. (Exhibit 22) Ms. Roberts neglected Orla by failing to assess her condition, failing to monitor her condition and failing to seek prompt and appropriate medical attention.

Ms. Sahlmeier further testified that Ms. Roberts had previously told her that she had no authority to call 911, even though Ms. Sahlmeier was the sole caregiver in the home from Thursday morning until Monday morning of each week. Ms. Sahlmeier had called 911 once before despite Ms. Roberts' orders, but Ms. Roberts had become very upset when she found out. (Testimony of Lucille Sahlmeier) Ms. Sahlmeier believed she would be fired if she acted against Ms. Roberts' instructions again. (Testimony of Lucille Sahlmeier) Ms. Roberts thus failed to direct her staff appropriately in medical emergencies which placed the residents in danger.

Ms. Sahlmeier further testified that a different resident, "Verna", fell in the bathroom on or about June 7, 1995. Verna had just returned to the home from multiple stays in the hospital. She was admitted in the hospital on May 21, 23, 25-26, 27-31 for treatment of pneumonia, upper gastro-intestinal bleeding, anemia, bronchitis, and contact rash. (Exhibit 23, 24 and 25) When she returned to Ms. Roberts' home, she was in a weakened state and had severe diarrhea. (Testimony of Lucille Sahlmeier; Testimony of Melinda Maxwell) Ms. Roberts brought Verna to the bathroom and then left her there, unattended. (Testimony of Lucille Sahlmeier) Verna finally tried to move herself from the commode to her wheelchair and fell. (Testimony of Lucille Sahlmeier) Ms. Roberts admitted to Melinda Maxwell that she left Verna on the commode,

unattended, but claimed that she did not know that Verna was weak. (Testimony of Melinda Maxwell) However, given that Verna had been just recently hospitalized for serious medical problems and that she had just returned to the home, it is evident that this resident was in a weakened state and needed additional supervision and care. Verna was readmitted into the hospital and was released again on June 12, 1995. (Exhibit 23)

Ms. Sahlmeier testified that a few weeks later, she went to work and Ms. Roberts told her that Verna had fallen again while attempting to use the commode. This time she suffered extreme bruising, and was black and blue in the sternum area. Ms. Roberts did not give Verna any medical attention after this second fall despite the extensive injuries. (Testimony of Lucille Sahlmeier; Testimony of Melinda Maxwell). This failure to provide necessary care in the home and to seek medical attention constitutes neglect.

A third resident, "Flo", had a history of repeated falls. (Testimony of Lucille Sahlmeier; Testimony of Melinda Maxwell). On July 20, 1995 at or about midnight, Flo fell again in the bathroom. Ms. Roberts told the investigator that Flo had fallen in the bathroom at night and that Flo was always yelling for help at night. (Testimony of Melinda Maxwell) The injuries were visible. She had bruises to her head and to both sides of her body. (Testimony of Lucille Sahlmeier). Flo indicated she had yelled for help to go to the bathroom, but nobody responded, so she attempted to go alone and fell. (Testimony of Melinda Maxwell). The medical records indicate that she suffered a neck sprain and multiple soft tissue injuries due to this fall. (Testimony of Melinda Maxwell).

Ms. Roberts admitted that Flo had a problem with falling at night while attempting to use the bathroom, yet, there is no evidence that she made any adequate attempt to remedy the night care problems that Flo was encountering by having a caregiver available.

Ms. Roberts is required to provide 24 hour care as needed. Ms. Roberts also failed to establish an effective night call system despite repeated requests by the program. (Testimony of Carole Isaman). Her testimony that she had an effective call bell system is undercut by the pictures of the bells (Exhibits 19 and 20), which show them to be tiny, decorative bells, and the testimony of Pam Slaughter that the bells could not be heard from any distance.

In summary, in a three month period, three different residents fell in four different incidents, suffering injuries including neck sprains, severe bruising and a broken hip. A caregiver is required to protect residents from neglect, which is defined as “ inaction which causes or threatens to cause harm”. Ms. Roberts made no attempt to remedy existing problems to prevent them from occurring again.. This indifference to the welfare of the residents’ safety is further reflected in the fact that one frail resident never received any medical attention although she had received extensive bruises and another resident did not receive medical attention for 19 hours after sustaining a hip fracture and other injuries. Ms. Roberts’ failure to act has caused harm to her residents and continues to threaten their safety and well-being.

B. Failure to Treat Residents with Respect and Dignity

All operators and caregivers must also comply with the provisions of the Residents’ Bill of Rights, to assure that the residents are treated as adults, with respect and dignity. The Resident’s Bill of Rights specifically states that each resident has the right to associate with a doctor of her choice. MCC 8.90.120(B)(4). Ms. Sahlmeier testified that when Flo returned to Ms. Roberts home, after a temporary stay in another care home, she had an appointment with a new doctor. Flo was very excited because she did not like her previous doctor, Dr. Eubanks, who had been her doctor for 6 years. (Testimony of Lucille Sahlmeier; Testimony of Melinda Maxwell). Ms.

Roberts told Ms. Sahlmeier that she was going to convince Dr. Eubanks to take Flo back. Ms. Roberts said she was not up to dealing with a new doctor. (Testimony of Melinda Maxwell). Ms. Roberts then ordered Ms. Sahlmeier to tell Flo that she would be going back to Dr. Eubanks. When Flo found out, she was so upset that she cried. (Testimony of Lucille Sahlmeier). Ms. Roberts' refusal to let Flo see the doctor of her choice because it would be inconvenient for Ms. Roberts is a clear violation of the Resident's Bill of Rights.

Ms. Roberts also testified that she considers her residents "her children," and states that they are dependent on her for everything. The resident Bill of Rights requires that a resident be treated "as an adult with respect and dignity." MCAR 890-020-415. Ms. Roberts' testimony indicates her approach is precisely the opposite, in violation of this rule.

C. Record-Keeping Violations:

MCAR 890-020-450 provides:

"(a) Resident records maintained by the operator shall be accessible to representatives of the Department conducting inspections, interviews or other investigations ..."

(b) The operator shall keep accurate resident records, keep them current, and store them on the premises.

(c) Individual resident records shall contain at least the following items:

(F) Incident reports on falls, injuries, absences, medical emergencies or similar occurrences."

In other words, the operator must have the records in her possession, must make these records accessible for department employees and must keep accurate records, including logging incident reports on falls and injuries. Ms. Roberts violated each of these rules.

On August 10, 1995, as part of the investigation of the April 13th incident, the investigator asked Ms. Roberts for Orla's records. Ms. Roberts stated that she did not have any of the records available. (Testimony of Melinda Maxwell) On September 5th, 1995, the department requested access to Ms. Roberts' older resident records as part of the investigation into new complaints against her home. (Testimony of Carole Isaman; Testimony of Melinda Maxwell). Ms. Roberts repeatedly refused to give access, although she maintained she had the records.. (Testimony of Carole Isaman) After the staff made numerous attempts to view the records, Ms. Roberts finally agreed to permit access and scheduled the visit for October 17th, 1995. (Testimony of Melinda Maxwell; Testimony of Carole Isaman). On that date, three department employees visited the home with the purpose of reviewing these records. After they arrived, Ms. Roberts told them that the records had "disappeared". (Testimony of Melinda Maxwell; Testimony of Carole Isaman) The program, to this date, has never had an opportunity to review these records. (Testimony of Melinda Maxwell; Testimony of Carole Isaman). The failure to have records and the failure to make them available both violate record-keeping requirements.

Ms. Roberts also failed to log Verna's second fall, which occurred sometime between June 12 and July 17, 1995. Ms. Sahlmeier testified that Verna told her she had fallen, that Ms. Roberts was present when she fell; and that the resident was "black and blue" in the sternum area. There was no documentation about this fall in her progress notes. (Testimony of Melinda Maxwell; Testimony of Carole Isaman). Additionally, Ms. Roberts never documented a fall that Flo had in January of 1995. The fall was mentioned in Flo's contract nurse's progress notes but not in the records that Ms. Roberts maintains for the residents. (Exhibit 29; Testimony of Melinda Maxwell) Failure to document falls is a violation of MCAR 890-020-450(c)(F).

Finally, Ms. Roberts failed to log medications administered to the residents. MCAR 890-020-510(d) refers to the record-keeping requirements for noninjectible medications and provides:

“A written medication chart for each resident shall be kept of all medications administered by the caregiver to that resident, including over the counter medications. The chart shall indicate name of medication, dosage, route and time given and shall be immediately initialed by the person giving it.”

On her release from the hospital on June 12, 1995, Verna had a prescription for 20 pills of Tylenol #3 filled. (Testimony of Melinda Maxwell) The investigator discovered that there was no indication in the records that this medication was ever administered to Verna. When asked about this, Ms. Roberts told the investigator that Verna took some of the pills, and the others were flushed down the toilet. (Testimony of Melinda Maxwell). According to Kaiser Permanente records, the prescription was refilled by Kaiser Permanente on July 21, 1995. (Testimony of Melinda Maxwell).

At hearing, Ms. Roberts produced a document from the IPAC Pharmacy indicating that the June 12, 1995 prescription was disposed of by them on March 25, 1996, a date three days before this hearing was to begin. Ms. Roberts indicated at hearing that she had had the drugs in question in her possession, in a locked cabinet since last summer. This information, if true, does not overcome the evidence that there were no records available regarding the administration or disposal of the drugs when requested by Aging Services investigators. It also does not explain why Ms. Roberts had reported to them that she had flushed the medication down the toilet. It also does not account for the whereabouts of the second prescription which Kaiser Permanente indicated it had issued.

In summary, Ms. Roberts has violated the record-keeping provisions by not keeping accurate records on the premises; by denying department employees access to the records; by

failing to document falls and injuries; and by failing to keep a medication chart indicating the administration and disposition of Tylenol #3, a controlled substance.

D. Poor Character and Judgment:

Ms. Roberts has failed to demonstrate the good judgment and personal character required to qualify for and to maintain an ACH license. MCAR 890-020-220(b) provides, "Operators and resident managers shall possess ...good judgment...determined necessary by the Department to provide room, board, supervision, care and/or services to adults who are elderly, handicapped or dependent." MCAR 890-020-220(c) adds, "Operators and resident managers shall possess good personal character." Lack of good judgment and personal character is evidenced by Ms. Roberts' numerous inconsistent statements and frequent inappropriate behavior.

The evidence demonstrates that Ms. Roberts has made many serious misrepresentations about herself and the services that she provides. Ms. Roberts represents herself as a Certified Nursing Assistant on her business card, her letterhead, and her brochure (see Roberts' Exhibit 208). In fact, according to the Board of Nursing, Ms. Roberts' C.N.A. certification expired on December 31, 1992 and it has never been renewed. (Exhibit 11).

Ms. Roberts' brochure also states that her home provides 24 hour supervision by a C.N.A. Ms. Roberts has used this brochure to recruit clients. Supervision is defined in MCAR 890-015-940 as,

"protective awareness of the residents' general whereabouts and functioning, including: monitoring the activities of the residents while on the premises of the home; generally ensuring resident's health, safety and welfare; and the ability and readiness to intervene on behalf of a resident if a crisis arises".

The claim that the home provides 24 hour supervision by a C.N.A. is clearly not true. Ms. Roberts was often the sole caregiver in the home and she is not a C.N.A. Additionally, neither Ollie Hollyfield nor Lucille Sahlmeier were C.N.A.s when they worked for Ms. Roberts and both testified they were on duty alone in the home. Thus, not only were residents not given 24 hour supervision by a C.N.A. , but the evidence demonstrates that often the residents were not given 24 hour supervision by anybody.

Tom Glenn, former Ombudsman, complained about another example of Ms. Roberts' misrepresentations. He indicated that Ms. Roberts had told prospective residents that he recommended her home, when in fact, he had not. Mr. Glenn also testified that she again misrepresented him when she told the Aging Services Department that he wanted a second administrative conference, when in fact he merely stated that he would attend the conference if she requested it (Testimony of Tom Glenn).

Ms. Roberts also made inconsistent statements during the investigation of complaints on her home. One example occurred in the investigation of Complaint #1950725. On August 10, 1995, Ms. Roberts told the investigator that on the day in question, April 13, 1995, she "observed [Orla] until about noon or 2 o'clock and then decided that we needed to have her checked out." (Testimony of Melinda Maxwell) On October 17, 1995, she changed her story and told the investigator that she was in Salem all day. (Testimony of Melinda Maxwell). Additionally, Ms. Sahlmeier testified that Ms. Roberts instructed her to lie about the time of the accident if anybody asked.

In another example, Ms. Roberts told the investigator of Complaint # A950827, that she had called 911 because Flo had hit one of the residents. (Testimony of Melinda Maxwell) However, she then told the emergency personnel that responded to her call that Flo had hit her.

(Exhibit 31). Subsequently, the Aging Services Department received an affidavit from a former caregiver, written by Ms. Roberts. The affidavit stated that Flo had hit that caregiver. Thus, Ms. Roberts gave three different versions of this story.

Another example demonstrates Ms. Roberts' inconsistent explanations of key events. In Ms. Maxwell's investigation of the 40 missing Tylenol #3 pills, Ms. Roberts said that she flushed the remaining pills down the toilet. However, she testified in this hearing, that she had not flushed the pills down the toilet but had disposed of them by returning them to the pharmacy.

A final example illustrates the complicated lies that Ms. Roberts told department employees. Ms. Roberts repeatedly refused to give department employees access to resident records in her possession. (Testimony of Carole Isaman; Testimony of Melinda Maxwell). She complained to department employees that the records were in a box that was so heavy that there was no way to transport it to the ACHP office. (Testimony of Melinda Maxwell; Testimony of Carole Isaman) On October 17, 1995, a scheduled visit to review these records, Ms. Roberts told the department employees that the records had 'disappeared'. (Testimony of Melinda Maxwell; Testimony of Carole Isaman) A few days later, the department received a letter, allegedly from Ms. Roberts' housekeeper, stating that she had accidentally thrown away a bag full of records. The department has never seen these records. However, one document, a residents' psychological evaluation, did re-appear when Ms. Roberts' needed the contents for her defense. (Testimony of Carole Isaman; Testimony of Melinda Maxwell). If the records were in a carton too heavy for Ms Roberts to carry, it is unlikely that they were later in a bag light enough for a housekeeper to discard accidentally. Similarly, if the records were truly missing, it is unlikely that a single record could be located when Ms. Roberts felt she needed it. In hearing, Ms. Roberts admitted she had failed to keep the records in a safe place.

It is also clear that Ms. Roberts has, on numerous occasions, harassed, intimidated and taken retaliatory action when individuals have not complied with her demands. . Testimony from Peggy Brewer, contract nurse, indicated that when Ms. Brewer refused to sign a letter pre-typed by Ms. Roberts regarding a previous complaint, Ms. Roberts became very upset. Ms. Roberts subsequently complained to Ms. Brewer's supervisor asking to have Ms. Brewer removed. She then filed a complaint about Ms. Brewer to the Board of Nursing. The Board found there was no basis for the complaint. (Exhibit 17.)

Tom Glenn, the Long Term Care Ombudsman, testified that Ms. Roberts contacted him on numerous occasions to persuade him to sign documents prepared by her. He testified that even after he expressly refused, she continued to harass him by phone and by mail. Also, there was testimony from Ms. Ollie Hollyfield, a former caregiver, stating that she too was pressured to sign a statement written by Ms. Roberts regarding former complaints. She feared that she would be fired if she did not sign it. She signed it even though she did not agree with the statements.

Finally, Ms. Roberts' behavior in calling 911 in a non-emergency situation reveals lack of good judgment. The affidavit from Lt. Lofgren and testimony from the investigator provides that the emergency personnel arrived at the home to find no medical need for their presence, a calm and "with-it" resident and an upset, crying and agitated caregiver, Ms. Roberts. Lt. Lofgren stated he believes Ms. Roberts calls 911 to get residents removed from the home that she does not want to deal with. (Exhibit 31).

Roberts' Testimony

Ms. Roberts produced no witnesses, and therefore presented no opportunity for cross-examination. This was true even though Ms. Roberts had at least 4 separate occasions in which

she could have produced witnesses. Consequently, any such witness evidence should receive minimal weight.

Ms. Roberts herself testified at length regarding the allegations, and her testimony served to underscore those allegations. She generally denied any problems in her home despite significant uncontested evidence. She tried to claim the complaints were from one, unreliable source. Rebuttal testimony indicated there were six different complainants. Ms. Roberts also claimed that the program had received complaints from only 2 caregivers whom she had fired regarding conditions in her home. Rebuttal testimony indicated complaints were received from seven different prior caregivers who did not know one another (Testimony of Mary Fassell). The two who had been fired had volunteered that information when making complaints, so this information was weighed by the program in assessing the credibility of their complaints.

Ms. Roberts attempted to discredit the residents' concerns by questioning their competence and to discredit County staff by implying that they were unqualified or biased. She blamed one resident's health problems in the home on Kaiser Permanente's releasing her too soon, and another's on a nurse seeing the resident too often. She accused governmental staff involved of being engaged in a conspiracy to harass her. In short, her testimony presented a point of view, but no significant factual evidence.

CONCLUSION

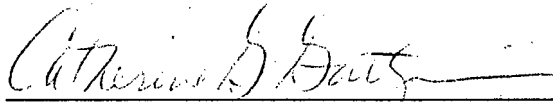
The Adult Care Home Program's revocation of Ms. Roberts' Adult Care Home License should be affirmed. The program proved that Ms. Roberts repeatedly violated applicable code and administrative rules by neglecting residents, violating their rights, failing to maintain necessary records, and failing to demonstrate good character and judgment when required. These violations

are not minor, but go to the heart of a caregivers' responsibilities. Failure to observe these rules perilously jeopardizes the health, welfare and safety of the elderly residents in the adult care home.

DATED this 28th day of May, 1996.

Respectfully Submitted,

LAURENCE KRESSEL, COUNTY COUNSEL
FOR MULTNOMAH COUNTY, OREGON

A handwritten signature in cursive script, appearing to read "Catherine G. Gaetjens", written over a horizontal line.

Catherine G. Gaetjens, OSB #88210
Assistant County Counsel
Of Attorneys for Aging Services

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Dianna Roberts (via first class mail)
19390 N.E. Multnomah Court
Portland, Oregon 97230

Catherine G. Gaetjens, OSB #88210

**CITY OF PORTLAND -- Code Hearings Office
1120 S.W. 1 Avenue, Room 1017, Portland, OR 97204
(503) 823-7307 / FAX (503) 823-4347**

NOTICE OF HEARING -- Appeal Hearing # 161035

Date Mailed: Mon, Apr 29, 1996

Multnomah County

vs.

Dianna Roberts
Respondent(s) / Appellant(s)

Type of violation or nature of determination: appeal - adult care home facility
Date of exclusion order or other determination: Tuesday, November 28, 1995
Complaint or appeal was filed in the Code
Hearings Office on: Wednesday, January 17, 1996
Bureau case # (if known):
City / County representative: Mary Fassell
Property:

You are notified that a hearing will be held in the above proceeding on:

Date: **Thursday, May 9, 1996** Time: **1:30:00 PM**
Place: **Meeting Room A, second floor of the Portland Building,
1120 S.W. 5th Avenue, Portland, Oregon**
Purpose: **Continued from 4/25/96.**

**ALL REQUESTS FOR POSTPONEMENTS AND CONTINUANCES MUST BE IN WRITING AND
FILED WITH THE CODE HEARINGS OFFICE AT THE ADDRESS AT THE TOP OF THIS
NOTICE.**

This notice has been mailed to the following parties :

Dianna Roberts 19390 N.E. Multnomah Court Portland OR 97230
Katie Gaetjens Sr. Asst. County Counsel
1120 S.W. 5th Avenue, 15th floor Portland OR 97204
Mary Fassell Mult. Co. Adult Care Home Program
421 S.W. 5th Avenue, #405 Portland OR 97204-2221
Code Hearings Office

**If you have any questions concerning this proceeding,
please call (503) 823-7307 for further information.**

If you need a sign language interpreter or an FM loop amplifier for this hearing, you may contact Darla Broberg or Ruth York at the Hearings Office, 823-7307, or the City Information TDD, 823-6868.

Please call during business hours AT LEAST TWO BUSINESS DAYS PRIOR to the hearing so arrangements can be made.

**CITY OF PORTLAND -- Code Hearings Office
1120 S.W. 1 Avenue, Room 1017, Portland, OR 97204
(503) 823-7307 / FAX (503) 823-4347**

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Hearings Office on: Wednesday, January 17, 1996
Bureau case # (if known):
City / County representative: Mary Fassell
Property:

You are notified that a hearing will be held in the above proceeding on:

Date: **Friday, May 10, 1996** Time: **9:00:00 AM**
Place: **Meeting Room A, second floor of the Portland Building,
1120 S.W. 5th Avenue, Portland, Oregon**
Purpose: **For continuation from 5/9/96.**

**ALL REQUESTS FOR POSTPONEMENTS AND CONTINUANCES MUST BE IN WRITING AND
FILED WITH THE CODE HEARINGS OFFICE AT THE ADDRESS AT THE TOP OF THIS
NOTICE.**

This notice has been mailed to the following parties :

Dianna Roberts 19390 N.E. Multnomah Court Portland OR 97230
Katie Gaetjens Sr. Asst. County Counsel
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Please call during business hours **AT LEAST TWO BUSINESS DAYS PRIOR** to the hearing so arrangements can be made.

FAX 823-4347

April 26, 1996

Mr. Wm. W. Shatzer
Hearings Code Officer
City of Portland
1120 S.W. 5th, Rm. 1017
Portland, OR 97204

RE: APPEAL HEARING # 161035 - DIANNA ROBERTS vs. ACHP

Dear Mr. Shatzer:

I apologize for the interruption of the Appeal Hearing yesterday afternoon. However, I was overcome with stress due the continued denial of *every* motion I have offered before you in this hearing; and, as I have advised you, I still have a care home to operate and ladies to attend to. This, in itself, is normally considered a full time job.

I will not be able to attend this mornings scheduled hearing, as the emergency room physician has ordered me to rest and avoid stress today. (See attached.)

Respectfully,

ROSEWOOD CARE, INC. (Est.d 1985)



DIANNA J. ROBERTS
OWNER/MANGER

cc: Katie Gaetjens FAX 248-3377

FOLLOW-UP INSTRUCTIONS

*Call to see Dr. MacDonald tomorrow
for this episode
Home 1- Red tomorrow Avoid
stress if possible Post op
Cov A hearing still next week*

MACDONALD, DORI

RKW

COPY TO:

LOCATION:

☒ PLEASE CALL *Dr. MacDonald* AND MAKE AN APPOINTMENT

☐ YOU HAVE AN APPOINTMENT TO SEE

DATE

TIME

<input type="checkbox"/> REVERION	<input type="checkbox"/> HEALTH CENTER EAST	<input type="checkbox"/> HUNTERVIEW/KELSO	<input type="checkbox"/> SKYLINE
<input type="checkbox"/> ULBIS KAISER M.C.	<input type="checkbox"/> HEALTH CENTER WEST	<input type="checkbox"/> MT. SCOTT	<input type="checkbox"/> SUNSET
<input type="checkbox"/> ROSS KAISER M.C.	<input type="checkbox"/> KAISER SUNNYSIDE M.C.	<input type="checkbox"/> MT. TALLUHI	<input type="checkbox"/> VANCOUVER
<input type="checkbox"/> CADCAUL PARK	<input type="checkbox"/> KAPLAN SUNNYSIDE M.C.	<input type="checkbox"/> OAK STREET	<input type="checkbox"/> OTHER
<input type="checkbox"/> DIVISION	<input type="checkbox"/> LANCASTER	<input type="checkbox"/> ROCKWOOD	

☐ IS OFF WORK FROM

☐ NO TIME LOSS - RELEASED FOR WORK
☐ EST. TIME LOSS

☐ MODIFIED

☐ HIGH DUTY

PHYSICIAN'S SIGNATURE

I HAVE READ AND UNDERSTAND MY FOLLOW-UP INSTRUCTIONS AND I HAVE RECEIVED A COPY.
I APPROVE THE USE OF NON-CHILDPROOFING PACKAGING FOR THIS EMERGENCY DISPENSING.

DATE *4/25/96* PATIENT'S SIGNATURE *D. J. Roberts*

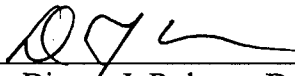
Kaiser Foundation Hospitals

PHARMACY / PATIENT COPY

PATIENT MUST SIGN SECOND COPY

DATED this [#]25 day of April, 1996.

Respectfully submitted,

By: 
Dianna J. Roberts, Defendant
19390 N.E. Multnomah Ct.
Portland, OR 97230

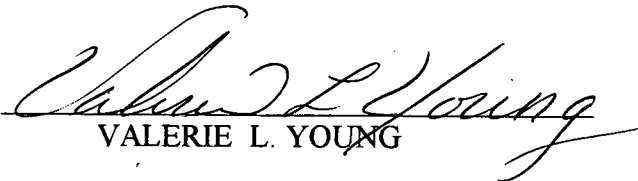
cc: Mr. Wm. W. Shatzer

Page 2

CERTIFICATE OF SERVICE

I hereby certify that I have made service of the foregoing Motion re
Appeal Hearing # 161035 Revocation of ACH License on Katie Gaetjens, Counsel for
Adult Care Home Program, Multnomah County Oregon by hand delivery on this
25th day of April, 1996, a certified true, exact and full copy thereof addressed to her
at her regular office address to-wit:

Katie Gaetjens
Sr. Assist. County Counsel
Multnomah County Oregon
1120 S.W. 5th, Rm. 1530
Portland, OR 97204


VALERIE L. YOUNG

In the Matter of Dianna Roberts' Adult Care Home License Revocation

VS.

MOTION TO CONTINUE


Page 1

request these written procedures so he/she may conduct he/she self according to **PROPER**
PROCEDURE and present testimony in the **PROPER MANNER**.

Defendant request these procedures be either mailed or delivered to he/she at address
of defendant below:

DATED this 25th day of April, 1996.

Respectfully submitted,

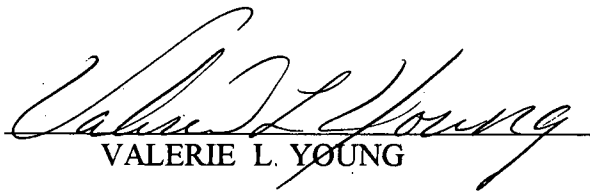
By: 
Dianna J. Roberts, Defendant
19390 N.E. Multnomah Ct.
Portland, OR 97230

cc: Mr. Wm. W. Shatzer

CERTIFICATE OF SERVICE

I hereby certify that I have made service of the foregoing Motion re
Appeal Hearing # 161035 Revocation of ACH License on Katie Gaetjens, Counsel for
Adult Care Home Program, Multnomah County Oregon by hand delivery on this
25th day of April, 1996, a certified true, exact and full copy thereof addressed to her
at her regular office address to-wit:

Katie Gaetjens
Sr. Assist. County Counsel
Multnomah County Oregon
1120 S.W. 5th, Rm. 1530
Portland, OR 97204


VALERIE L. YOUNG

In the Matter of Dianna Roberts' Adult Care Home License Revocation

APPEAL HEARING # 161035

MOTION TO CONTINUE


Defendant moves the Code Hearings Office to continue the above matter until which time as the Hearings Office can provide a typed transcript of the Countys' case on record excluding, of course, sections disallowed.

Defendant has obtained copies of the cassette tapes of all previous testimony; however, they are inadequate to work from. MCAR 890-090-330 "Transcribing the record made by a court reporter shall be at the expense of the party requesting the transcript, unless an appropriate affidavit of indigency is filed." The appropriate, 'affidavit of indigency,' will be forthcoming.

Defendant moves the Hearings Office for a continuance of 14 days upon receipt of said transcript to review the material.

DATED this 25th day of April, 1996.

Respectfully submitted,

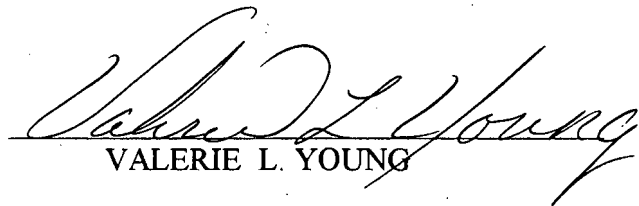
By: 
Dianna J. Roberts, Defendant
19390 N.E. Multnomah Ct.
Portland, OR 97230

cc: Mr. Wm. W. Shatzer

CERTIFICATE OF SERVICE

I hereby certify that I have made service of the foregoing Motion to Continue
Appeal Hearing # 161035 Revocation of ACH License on Katie Gaetjens, Counsel for
Adult Care Home Program, Multnomah County Oregon by hand delivery on this
25th day of April, 1996, a certified true, exact and full copy thereof addressed to her
at her regular office address to-wit:

Katie Gaetjens
Sr. Assist. County Counsel
Multnomah County Oregon
1120 S.W. 5th, Rm. 1530
Portland, OR 97204


VALERIE L. YOUNG

MULTNOMAH COUNTY ADMINISTRATIVE HEARING
FOR THE COUNTY OF MULTNOMAH
STATE OF OREGON

In the Matter of Dianna Roberts' Adult
Care Home License Revocation

Adult Care Home Program
Multnomah County Oregon, Plaintiff

vs.

Dianna J. Roberts, Defendant

APPEAL HEARING # 161035

MOTION TO REMAND

On this day the 24th day of April 1996, Defendant moves the Code Hearings Office to remand the above matter for the reasons indicated below:

Plaintiff was in violation of MCAR 890-080-330 throughout 1995 disregarding repeated requests by Defendants attorneys of the moment. This violation has denied defendant the opportunity to, "review the sanction and/or deficiencies and violations cited, and to provide information to the operator which can assist in achieving satisfactory compliance within required time limits."

Page 1

RECEIVED
APR 24 1996
HEARINGS OFFICE

The ACHP Manager and its' staff, and with the knowledge of the Director of ASD, has engaged in a malicious consistent pattern of harassment, deception and misrepresentation in an attempt to sabotage my business with intent to suppress my political activities. Plaintiff has filed a Motion to Strike Defendant's witness list to protect the action of its' own staff and deny me due process. The Director, personally, has told me that, 'if I have nothing to hide -- why am I reluctant to allow access to my records and uncooperative with the weekly investigations by his staff.' Defendant maintains the same should apply to subject hearing. If the Plaintiff has nothing to hide, why file a Motion to Strike my witness list.

The Plaintiff has made serious allegations with intent to suppress my political activities causing me to sustain serious irretrievable financial losses and slandered my reputation **with intent**.

Attachments No. 1 and 2 will refute:

Exhibit # 1, Line 28 (2-1-94) and,

Exhibit # 2, Pg. 2. Item 6.

All further complaints offered as exhibits were brought about by the County's own lack of good judgment causing irreparable harm to one of my residents.

Page 2

The Plaintiff has not only aggressively solicited complaints from current residents, former residents current residents families, former residents families, current residents doctors, former residents doctors, current employees, former employees, and emergency medical personnel, but also filed them within the network of the different divisions of ASD.

By allowing this Motion to Strike, the Hearings Officer has shown prejudice as alleged in my opening objections that; since he is bought and paid for by Multnomah County *on Contract* -- in their pocket so to speak -- is denying me due process to defend myself against said allegations. The Hearings Officer has become further prejudiced by the deferred admission and testimony of incidents after the fact. Many exhibits still remain in the file relating to this deferred ruling. On Tape #1, in the first 10 minutes of subject hearing on March 28, 1996, the Hearings Officer states, "When we conclude the County's case, then I'll give Ms. Roberts a chance to present any witness or evidence she may so desire." Although we did exchange an informal 'witness list', I was not informed in advance that a witness list would be required *at any time* let alone informed that, once I presented it, it would not be allowed to be amended. On two (2) occasions, I have personally gone to the Code Hearings Office to request procedure information on these hearings -- both times, the first time Darla was at the counter and the second time Ruth was asked. Both staff members of this office advised me they had no written procedures. However, repeatedly, throughout the last few days of hearing, I have been informed,

Page 3

"That is not the *proper* procedure" -- "This is not the *proper* time." Well, if there is no 'written' procedure, what can be considered *proper*?

I informed Barbara Clark, Portland City Auditor, of this and she stated, "I don't believe that."

The Hearings Officer, has repeatedly entertained the word *irrelevant* in this case, which I beg to defer. When it comes to a persons livelihood, nothing can be, or should be *irrelevant*. If *his* livelihood were at stake here, he would have a different opinion. Defendant alleges that the Hearings Officer is depriving the defendant due process by not allowing the testimony of the fifty-seven (57) witnesses, because he has already made his decision.

Defendant moves that the Hearings Office reconsider the amended witness list.

Defendant moves that subject appeal be remanded without prejudice.

DATED this 24th day of April, 1996.

Respectfully submitted,

By: Dianna J. Roberts
Dianna J. Roberts, Plaintiff
19390 N.E. Multnomah Ct.
Portland, OR 97230

Attachments (2)
cc: Mr. Wm. W. Shatzer

Page 4

Oregon

DEPARTMENT OF
STATE POLICE

IDENTIFICATION
SERVICES SECTION

October 12, 1995

Dianna Joyce Roberts (12-31-46)
19390 NE Multnomah Court
Portland, Oregon 97230

This letter acknowledges receipt of your fingerprint card and request for criminal history record.

A technical search of our master fingerprint file was conducted on the above date and did not reveal any criminal record on file with this office.

The submitted fingerprint card is enclosed.

The Identification Services Section is a Division of the Department of State Police and designated by law as the central repository for criminal offender information for the State of Oregon.

Sincerely,


Sergeant Alfred C. Bathke
Identification Services Section
Forensic Services Division

ACB:js/id

STATE OF OREGON)

)ss.

County of Marion)



Signed before me on this 13th day of October, 1995.


Notary Public for Oregon
My Commission Expires 4-25-99



ATTACH. 1

3772 Portland Rd. NE
Salem, OR 97303
(503) 378-3070 (Voice/TDD)
FAX (503) 378-2121

APPLICANT		LEAVE BLANK		TYPE OR PRINT ALL INFORMATION IN BLACK				LEAVE BLANK	
				LAST NAME <u>NAM</u>	FIRST NAME	MIDDLE NAME			
NATURE OF PERSON FINGERPRINTED <u>Dianna J. Roberts</u>		ALIASES <u>AKA</u>		OR I SPOL-BU CRIM IDENT SALEM, OR			DATE OF BIRTH <u>DOB</u> Month Day <u>46</u>		
SIGNATURE OF PERSON FINGERPRINTED		CITIZENSHIP <u>CTZ</u>		SEX <u>F</u>	BALL	HEEL	WGL	EYES	HAIR
SIGNATURE OF OFFICIAL TAKING FINGERPRINTS <u>10/95 [Signature]</u>		YOUR NO. <u>OCA</u>		LEAVE BLANK					
FOOTER AND ADDRESS		FBI NO. <u>FBI</u>		CLASS					
		ARMED FORCES NO. <u>MNU</u>		REF.					
		SOCIAL SECURITY NO. <u>SOC</u>							
		MISCELLANEOUS NO. <u>MNU</u>							

2. R. INDEX		3. R. MIDDLE		4. R. RING		5. R. LITTLE	
6. L. INDEX		7. L. MIDDLE		8. L. RING		9. L. LITTLE	
LEFT FOUR FINGERS TAKEN SIMULTANEOUSLY				L. THUMB		R. THUMB	
				RIGHT FOUR FINGERS TAKEN SIMULTANEOUSLY			

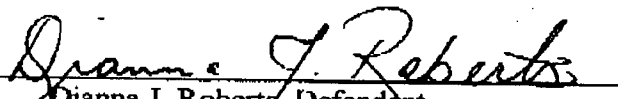
ATTACH. 2

CERTIFICATE OF SERVICE

I, hereby, certify that on the 24th day of April, 1996, I served within Motion to Remand on the individual listed below, by a telephone facsimile communication device to the number listed below, of which the printed confirmation of receipt is attached:

Catherine Gaetjens, Sr. Asst. County Counsel
Multnomah County Oregon
1120 S.W. 5th Ave., Suite 1530
Portland, OR 97204

FAX 248-3377


Dianna J. Roberts, Defendant
19390 N.E. Multnomah Ct.
Portland, OR 97230



CITY OF
PORTLAND, OREGON
HEARINGS OFFICE

1120 S.W. 5th Avenue, Room 1017
Portland, Oregon 97204-1960
Land Use Hearings (503) 823-7719
Code/Towing Hearings (503) 823-7307
FAX (503) 823-4347
TDD (503) 823-6868

April 22, 1996

Ms. Catherine G. Gaetjens
Assistant County Counsel
Multnomah County
1120 S.W. 5th Avenue, Room 1530
Portland, OR 97204

via fax to 248-3377

Ms. Dianna Roberts
19390 N.E. Multnomah Court
Portland, OR 97230

via fax to 661-4763

SUBJECT: Appeal of Dianna Roberts, No. 161035

Ladies:

The appellant has submitted a supplemental witness list of some 57 additional witnesses whom she proposes to call in this proceeding. The County has moved for an order striking this supplemental witness list.

After a review of the records and files in this proceeding I have determined that the supplemental witness list is either not timely filed or that the witnesses on the supplemental list do not have relevant and material testimony, or both.

The original order of the hearings officer required the parties to exchange witness lists at the commencement of the County's case in chief. This order was, of course, entered at the appellant's request. The appellant was given leave to amend or supplement her witness list as might be necessary to respond to the allegations raised and the evidence offered in support of the County's February 12, 1996, supplemental notice of sanctions only.

I subsequently determined that the allegations contained in the February 12, 1996, supplemental notice of sanctions could not properly be considered in this proceeding and that any evidence offered in support thereof would not be considered.

Thus, to the extent the witnesses on the supplemental witness list are intended to respond to the allegations contained in the supplemental notice of sanctions or the evidence offered in support thereof, those are no longer issues in this proceeding, and the testimony of such witnesses would be irrelevant and immaterial. If the witnesses are intended to respond to the allegations contained in the original November 28, 1995, notice of sanctions and the evidence offered in support thereof, those witnesses should have been included in appellant's original witness list, and their inclusion by way of a supplemental list at this late date is untimely.

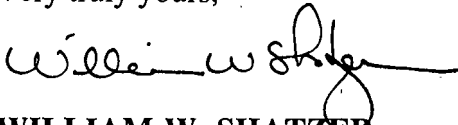
The County's motion to strike appellant's supplemental witness list is allowed.

Catherine G. Gaetjens and
Dianna Roberts
April 22, 1996
Page No. 2

Appellant should, of course, have an adequate opportunity to present all relevant and material evidence in support of her positions in this proceeding. Upon the motion of the appellant and a showing that there are additional witnesses whose existence or identity were unknown and could not, with the exercise of reasonable diligence, have been known to appellant at the time of the exchange of the original witness lists, and upon showing of the general relevance and materiality of their testimony, such witnesses will be allowed.

With that exception, appellant may call those witnesses on her original witness list only.

Very truly yours,

A handwritten signature in black ink, appearing to read "William W. Shatzer", with a stylized flourish at the end.

WILLIAM W. SHATZER
CODE HEARINGS OFFICER

WWS:db

cc: Mary Fassell via fax to 306-5722

MULTNOMAH COUNTY ADMINISTRATIVE HEARING
FOR THE COUNTY OF MULTNOMAH

In the Matter of Dianna Roberts'
Adult Care Home License
Revocation

Adult Care Home Program
Multnomah County Oregon,
Plaintiff

vs.

Dianna J. Roberts, Defendant

NO. 161035

ARGUMENT AGAINST MOTION
TO STRIKE WITNESS LIST

Defendant, Dianna J. Roberts, pleads against the Motion to Strike Witness List submitted on April 19, 1996. No where in the MCAR's does it limit the number of witnesses that may be necessary to defend oneself against malicious 'anonymous' complaints. I have more witnesses than were even presented, however, was interrupted during my preparation and time frame allowed was expired. Some cases can be resolved in an hour -- others may require several days. The county's attempt to limit my witness list is further evidence at just how far they will go to thwart my due process rights. Each case must stand on its' own merit.

Page 1 of 4

The Hearings Officer must take into consideration that the Adult Care Home Program has never alleged that my residents are in imminent danger, therefore, there should be no reason to thwart my due process for the 'health, safety and welfare' of my residents continually referenced by the ACIIP. My residents are receiving excellent care.

If I am not allowed to call each and every one of those on my list, I will be denied due process.

The County alleges this list constitutes an abuse of process. This is absolutely not true.

The ladies in my Adult Care Home have elected to stay in my home through continuous, relentless harassment from the staff of the Adult Care Home Program. I will need these witnesses to prove this. I presented you, Mr. Shatzer, with pictures of what can and did happen to a lady that the county took out of my home. I, also, presented you with a picture of the same lady 13 days before the county made that educated decision to remove her from my home. Had they not used their abuse of power to remove her, she would not be in a nursing home today. Without these witnesses, I will not be able to present this case.

Page 3 of 4

The letter of revocation the Adult Care Home Program presented to me totaled fourteen (14) pages and contained sixty-nine (69) pages of attachments. This, in itself, indicated this is not a one hour or even one day. Adult Care Home Program should have anticipated that when they prepared the letter.

I was not aware that I would need to present a witness list on the first day of my hearing. The Adult Care Home Program had the opportunity to remand this hearing and chose not to. I will be making a motion this week that you do remand it, as obviously, the ACHP does not want to be required to defend their actions under oath. These complaints in the exhibit file today have everything to do with county employees. That is why I have fourteen (14) of them on my list. There is no intent of harassment.

Ms. Gaetjens, Counsel for the County alleges that I have, repeatedly, attempted to delay this hearing, as have you Mr. Shatzer. This is simply untrue. **I have been granted ONE (1) Continuance -- and ONE ONLY!!!** I still have a home to operate and ladies to care for and no funds for an attorney, which you have refused to grant me. If the records were available, I'm confident other cases have not been limited to the number of continuances allowed. This information has been requested through the Freedom of Information Act -- but has not been forthcoming.

If the County is so concerned about time, filing a Motion to Strike has only served to delay my due process rights.

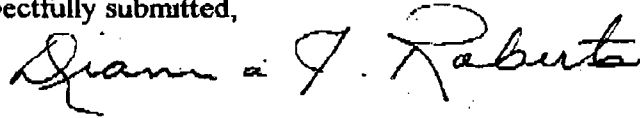
Page 2 of 4

None of the complaints in your file, would be there today; had it not been for the removal of this resident who I had care for six (6) years.

Therefore, I request that the Hearings Officer allow each of the fifty (57) witnesses on my list be called. Considering, Mr. Shatzer, that you work under contract for the Adult Care Home Program and Ms. Mary Fassell, specifically, I trust you will be able to make an unbiased decision.

DATED this 22 day of April, 1996.

Respectfully submitted,

A handwritten signature in cursive script that reads "Dianna J. Roberts". The signature is written in dark ink and is positioned below the phrase "Respectfully submitted,".

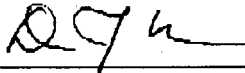
By: Dianna J. Roberts, Defendant
19390 N.E. Multnomah Ct.
Portland, OR 97230

CERTIFICATE OF SERVICE

I hereby certify that on the 22 day of April, 1996, I served within Argument Against the Motion to Strike Witness List on the individual listed below, by a telephone facimile communication device to the number listed below, of which the printed confirmation of receipt is attached:

Mr William W. Shatzer
CODE HEARINGS OFFICER
1220 S.W. 5th, Rm. 1017
Portland, OR 97204

FAX (503) 823-4347



Dianna J. Roberts

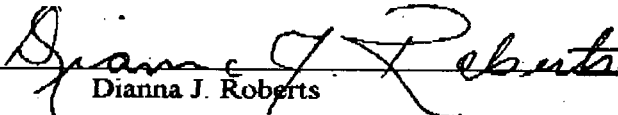
cc: Katie Gaitjens

CERTIFICATE OF SERVICE

I hereby certify that on the 22 day of April, 1996, I served within Argument Against the Motion to Strike Witness List on the individual listed below, by a telephone facimile communication device to the number listed below, of which the printed confirmation of receipt is attached:

Catherine Gaetjens
Sr. Assist. County Counsel
1220 S.W. 5th, Rm. 1530
Portland, OR 97204

FAX (503) 248-3377


Dianna J. Roberts

KATIE GAETJENS

MULTNOMAH COUNTY COUNSEL
1120 S.W. FIFTH AVENUE, SUITE 1530
P.O. BOX 849
PORTLAND, OREGON 97207-0849
(503) 248-3138
FAX (503) 248-3377

Please send response

Attn: Sandy Duff,
in my office

Thank you
Katie Gaetjens

RECEIVED
APR 19 1996 *DB*
HEARINGS OFFICE

MULTNOMAH COUNTY ADMINISTRATIVE HEARING
FOR THE COUNTY OF MULTNOMAH

In the Matter of
Dianna Roberts'
Adult Care Home License
Revocation

)
)
)
)
)
)

NO. 161035

Motion To Strike
Witness List

RECEIVED

APR 19 1996 *JB*

HEARINGS OFFICE

Multnomah County Department of Aging Services, by and through it's attorney, Katie Gaetjens, moves the hearing officer in the above captioned matter to strike the witness list submitted by Dianna Roberts on April 19th, 1996, in it's entirety with the exception of the four witnesses previously submitted by Ms. Roberts. This motion is requested for the following reasons.

Ms. Roberts' requested witness list represents an abuse of process. Ms. Roberts, in this morning's hearing indicated she wished to add some additional witnesses to her original witness list. Even this request is without merit because it has been two weeks since the county rested its case and three weeks since the parties exchanged witness lists. Ms. Roberts was aware of all of the county's testimony on April 5th, 1996. Since that time the hearings officer has struck a portion of the county's case. Consequently, Ms. Roberts at this time, should need fewer, rather than additional witnesses.

Instead, Ms. Roberts has submitted a list which includes 57 additional witnesses. Clearly the presentation of that many witnesses would take many days, if not weeks. Given Ms. Roberts previous, numerous attempts to delay the occurrence and the

completion of this hearing, her witness list is just one more attempt to delay. Such stalling and delay cannot be tolerated in a situation where the safety and welfare of frail, elderly people is at stake.

In addition, a review of her proposed witness list indicates that at least 14 of the proposed witnesses are county employees or contract employees, who are unlikely to add to her case in any way. Moreover, the list includes the lead counsel, certified law clerk, and program staff person who have presented the county's case. The inclusion of county personnel can only be for the purpose of harassment.

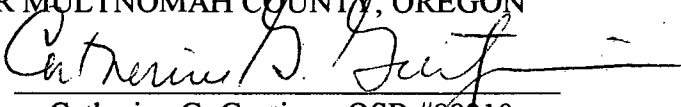
Ms. Roberts' due process rights have been fully observed in this hearing. Ms. Roberts received notice of the complaints at issue in this hearing on November 28, 1995. The hearing began March 28, 1996, four months later. Ms. Roberts does not need and is not entitled to more time. Consequently, we ask the hearings officer to strike her witness list as an abuse of process.

DATED this 19th day of April, 1996.

Respectfully submitted,

LAURENCE KRESSEL, COUNTY COUNSEL
FOR MULTNOMAH COUNTY, OREGON

By:


Catherine G. Gaetjens, OSB #88210

Assistant County Counsel

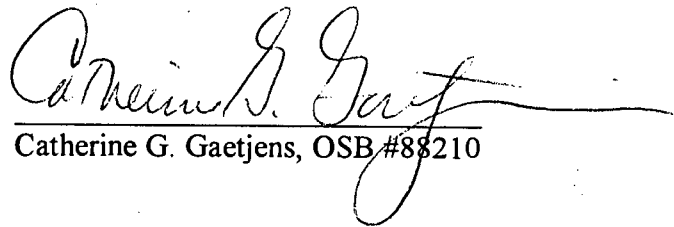
Of Attorneys for the Department of Aging Services.

CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of April, 1996, I served within **Motion to Strike Witness List** on the individual listed below, by a telephone facsimile communication device to the number listed below, of which the printed confirmation of receipt is attached:

Ms. Dianna Roberts
19390 N.E. Multnomah Court
Portland, Oregon 97230

(503) 661-4763


Catherine G. Gaetjens, OSB #88210

TEL:

Apr 19 96 16:08

Transmit Confirmation Report

No. : 004
Receiver : 666-9121 FAX:6614763
Transmitter :
Date : Apr 19 96 16:08
Time : 02'18
Mode : Norm
Pages : 04
Result : OK

MEMORANDUM

TO: Katie Gaetjens, Sr. Asst. County Counsel, Multnomah County Oregon
FAX: 248-3377
RE: Appeal Hearing # 161035
FROM: Dianna Roberts
RE: Witness List for April 25 & 25, 1996

Witness List:

Floyd Walters
Al Gantenbein
Heather Meyers
Lea
Donna Burns
Mettie Hanson
Lois Fammatre
Diane Shoemaker
John Chabin
Betty Glantz
Bunny Harold
Peggy Brewer
Jean DeMaster
Annette Potts
Heather Stewart
Georgia Purcell
Sue Hanson
Dane Brown
Lori Eggers
Kathy Dodd
Mary Fassell
Sheen Wu
Katie Gaetjens
Jackie Doak
Winfield Scragg
Darlene Scragg
Keith Rogers
Darold Steiner
Florida Steiner
Micky McClane
Larry Ranieri

Cindy Peetz-Yochim
Valerie Young
Debbie Warren
Kyle Irwin
Betty Walters
Melinda Maxwell
Doris Mitchell
Jim McConnell
Mary Amdall-Thompson
Judy Fowler
Kathy Millan
Elaine Castlio
Ada Tyron
Carol Rex
Dona Johnston
Cheryl Banks
Vicki Kerr
Jim Banks
Terri Johnson
Dr. Leslie Franson
Betty Bowers
Rick Davison
Dr. Henry
Dr. George Gerhing
Grover Simmons
Flonnie McClane
Marilyn Klesh
Vivienne Black
Officer Eldon Long
Lt. Eric Lofgren

cc: W. W. Shatzer

RECEIVED
APR 19 1996
HEARINGS OFFICE

MULTNOMAH COUNTY ADMINISTRATIVE HEARING
FOR THE COUNTY OF MULTNOMAH
STATE OF OREGON

In the Matter of Dianna Roberts' Adult
Care Home License Revocation

Adult Care Home Program
Multnomah County Oregon, Plaintiff

vs.

Dianna J. Roberts, Defendant

APPEAL HEARING # 161035

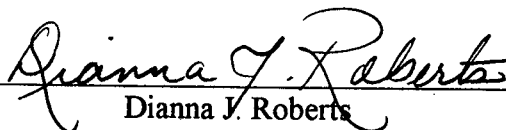
MOTION TO CONTINUE FOR

30 DAYS

On this date, April 19, 1996, Defendant moves the Code Hearings Officer for an order to continue hearing for 30 days the above matter of ACH License Revocation for the reason that the attachments to the November 28th, 1995 letter exceed 60 pages and evidence rebutting the complaint cannot be properly presented on this date or even the latter scheduled dates of April 25-26, 1996. Witnesses from Alaska will not be available until after May 25th, 1996.

DATED

4-19-96



Dianna J. Roberts
19390 N.E. Multnomah Ct.
Portland, OR 97230 PH: 666-9121

Submitted by: Dianna J. Roberts, Defendant

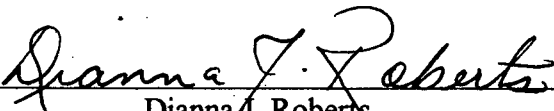
PAGE 1. MOTION TO CONTINUE FOR 30 DAYS

MULTNOMAH COUNTY ADMINISTRATIVE HEARING
FOR THE COUNTY OF MULTNOMAH
STATE OF OREGON

In the Matter of Dianna Roberts' Adult)	
Care Home License Revocation)	
	)	APPEAL HEARING # 161035
Adult Care Home Program)	
Multnomah County Oregon, Plaintiff)	
	)	MOTION TO DISMISS
vs.	)	REVOCATION OF ACH LICENSE
)	
Dianna J. Roberts, Defendant)	

On this date, April 19, 1996, Defendant moves the Code Hearings Officer for an order dismissing the Adult Care Home License Revocation in the above matter for the reason that the Plaintiff has not followed the Multnomah County Administrative Rule 890-080-330. It is further requested of the court to order complaints entered into evidence be removed from the Defendants Public File along with Complaint # A96-0109 and 43867 (Per attached documents - 16 pages.)

DATED 4-19-96


Dianna J. Roberts
19390 N. E. Multnomah Ct.
Portland, OR 97230 Ph: 666-9121

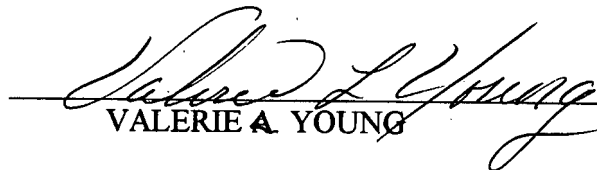
Submitted by: Dianna J. Roberts, Defendant

PAGE 2.

CERTIFICATE OF SERVICE

I hereby certify that I have made service of the foregoing Motion to Dismiss
Appeal Hearing # 161035 Revocation of ACH License on Katie Gaetjens, Counsel for
Adult Care Home Program, Multnomah County Oregon by hand delivery on
April 19, 1996, a certified true, exact and full copy thereof addressed to her at her
regular office address to-wit:

Katie Gaetjens
Sr. Assist. County Counsel
Multnomah County Oregon
1120 S.W. 5th, Rm. 1530
Portland, OR 97204


VALERIE A. YOUNG

April 16, 1996

Katie Gaetjens
Sr. Assistant County Council
106/1530

HAND DELIVERED

Dianna Roberts
19390 NE Multnomah Court
Portland, OR 97230

Fax No. 661-4763

Re: Appeal of Dianna Roberts, No. 161035

I requested legal argument from the parties as to whether I may properly consider, in this proceeding, alleged violations of the Multnomah County Administrative Rules for the licensure of Adult Care Homes, (MCAR 890-005-100 et. seq.) which are alleged to have occurred after the original notice of revocation issued November 28, 1995, or Ms. Robert's request for appeal filed with the Multnomah County Adult Care Home Program on December 15, 1996. Specifically, whether those matters raised in the supplemental determination and notification of sanctions issued by the MCACHP on February 12, 1996, may be considered in this proceeding as additional grounds for revocation.

After review of the files and the submissions of the parties, I have concluded that these supplemental allegations should not be considered in this proceeding as the February 12, 1996, supplemental determination and notice of sanctions is insufficient under the County's own rules.

MCAR 890-080-240 provides:

"The notice of an administrative sanction shall state:

(c) The reasons for the sanction, **including the circumstances constituting the violations of laws, codes or rules.**

In this regard, the February 12, 1996, supplemental notice of sanctions states:

"The Adult Care Home Program has received another complaint against your home alleging the following:

1. Resident was not given needed care.
2. Resident was not given proper diet.
3. Resident's visitor was denied access to your home.
4. Resident's mail was read by others without resident's permission.
5. You retaliated against a resident because you thought the resident had made a complaint against your adult care home

Our preliminary investigation indicates that the complaint is **at least in part substantiated** and that the resident **may** have been in serious danger due to lack of necessary care and supervision."

The February 12 supplemental notice of sanctions is insufficient to meet the requirements of MCAR 890-080-240.

First, of course, the notice states only that a complaint has been received and that some unspecified portion of the complaint has been substantiated and that the resident **may** have been in serious danger.

Equally important, the notice contains only conclusionary statements as to the alleged violations. There is no reference to any of the underlying facts which may constitute a violation of the code or rules. No date or dates are specified on which the actions or omissions allegedly constituting a violation occurred. No information sufficient to allow the appellant to identify the resident or residents who may have been endangered or whose rights may have been violated was provided. No reference to the specific code or rule provisions alleged to have been violation is included.

In short, the notice of sanctions does not contain a sufficient statement of "the circumstances constituting the violations of laws, codes or rules" adequate to comply with the requirements of MCAR 890-080-200.

In addition to being insufficient under the county's own rules, the February 12 supplemental notice of sanctions appears deficient on due process grounds as well. I can find no significant difference between the notice that MCACHP had received a complaint alleging that "resident was not given needed care" and the

notice utilized in *Reynolds v. Children's Services Division*, 280 Or 431 (1977). In that case, the Oregon Supreme Court held that a stated reason for revocation that "the sanitary conditions in [petitioner's] home do not provide a healthy environment for children" was insufficient to meet the basic standards for due process.

A further problem with the February 12, 1996, supplemental notice of sanctions arises under MCAR 890-080-320 and 330. Under those rules, the operator apparently has an absolute right to request an administrative conference. The appellant has apparently requested such an administrative conference in connection with the February 12 supplemental notice of sanctions but the conference has not, apparently, yet been scheduled or held.

The appellant appears entitled, as of right, to the requested administrative conference under MCAR 890-080-330. Requiring her to proceed with a hearing to defend against the charges contained in the February 12 supplemental notice of sanctions without the required conference would seem contrary to the County's rules. At the very least, such a conference would have provided appellant with information about the circumstances of the alleged violations which is lacking in the notice of sanctions itself.

The county has suggested that the proper remedy for the deficiencies in the County's supplemental notice of sanctions would be to grant the appellant an additional postponement of the hearing to allow her time to prepare a response to these additional allegations. However, I decline to adopt this approach. This proceeding has already been considerably delayed. Further, testimony in this proceeding began on March 28 and, even without additional delay, does not appear likely to conclude before April 25 at the earliest. Further delays would extend the completion date considerably beyond even the April date. I have considerable doubts about my ability to render a proper and reasoned determination in this proceeding with testimony stretching over such a long period of time.

The County may have its choice in this proceeding. It may request and take a voluntary remand if it so desires. On remand, it may issue a new determination and notice of sanctions incorporating such "circumstances constituting the violations of laws, codes, and rules" as it deems appropriate. An appropriate administrative conference under MCAR 890-080-330 can be held, if requested, and the new determination and notice of sanctions may be appealed if Ms. Roberts desires. Or the County may continue with this hearing in which case I will consider only evidence on those allegations of violation contained in the

April 16, 1995
Gaetjens and Roberts
Page No. 4

November 28, 1995, notice of sanctions. Evidence as to any matters raised in the February 12 supplemental notice of sanctions will not be considered.

Very truly yours,

William W. Shatzer
Code Hearings Officer

WWS/ry

cc-Mary Fassell via Fax: 306-5722

April 17, 1996

FAX 823-3377
823-4347

Mr. William W. Shatzer
CODE HEARINGS OFFICER
City of Portland
1120 S.W. 5th, Rm. 1017
Portland, OR 97204

Ms. Katie Gaetjens
SR. ASSISTANT COUNTY COUNSEL
MULTNOMAH COUNTY OREGON
1120 S.W. 5th, Rm. 1530
Portland, OR 97204

RE: APPEAL HEARING # 161035 - DIANNA J. ROBERTS vs. MCACHP

Dear Mr. Shatzer & Ms. Gaetjens:

In lieu of the fact that Mr. Shatzer has ruled that Multnomah County Adult Care Home Program denied my due process rights with regard to Complaint A96-0112, I respectfully request that the letter of revocation dated 11-28-95 be rescinded at this time.

The same circumstances exist with regard to the complaints enclosed with the 11-28-95 letter. I am enclosing copies of **eight (8)** letters requesting conferences, hearings, etc. within the required time frame as outlined in MCAR 890-080-200 and 300. Specifically, 'An Administrative conference shall be scheduled as soon as possible and no later than ten (10) days from a request for such a meeting.' (MCAR 890-080-330)

THIS WAS NEVER DONE!

All three (3) of my attorneys advised me they could not get the Adult Care Home Program to respond to their letters; which, they informed me, evidenced lack of *'bargaining in good faith.'*

RECEIVED
APR 17 1996
HEARINGS OFFICE

Mr. Shatzer & Ms. Gaetjens

April 17, 1996

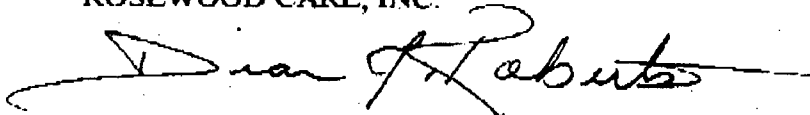
Page 2 of 2

I request that all complaints, which were presented into evidence for this hearing including Complaint # A96-0109 and 43867, be ordered removed *permanently* from my public file. The basis for this request is that, had it not been for the staff of the Aging Services Division not utilizing good judgment in the case management of one of my residents with a mental disorder, these complaints would have never existed -- nor would this fine lady be confined to a wheelchair in a nursing home, today. Her health had improved, markedly, during her six (6) years in my home. Her mental status was, of course, a lifelong condition; which a professional stated he could do nothing about at this time due to her age according to several family members. My reputation as a care home operator should not be compromised by a resident, who cannot be held accountable for her actions. This situation has been discussed, at length, with my license person, Carol Isaman.

To proceed further with the subject hearing as scheduled on April 19th would not only be ludicrous, but a waste of my time and the tax dollars of Multnomah County.

Respectfully,

ROSEWOOD CARE, INC.



DIANNA J. ROBERTS (Est'd 1985)

OWNER/MANAGER

cc: Barbara Clark

Jim McConnell

Enc. (13)

April 16, 1996

FAX 823-4347

Mr. William W. Shatzner
CODE HEARINGS OFFICER
City of Portland
1120 S.W. 5th. Rm. 1017
Portland, OR 97204

Dear Mr. Shatzner:

RE: APPEAL HEARING #161035 - DIANNA ROBERTS
MEMORANDUM FROM KATIE GAETJENS

I am in receipt of subject memorandum from Ms. Gaetjens regarding Complaint # A96-0112. *Without addressing the memorandum in its entirety, I would expect an sworn affidavit to be ironclad and bullet proof. Ms. Pamela Slaughter's is far from that.*

EXHIBIT B - Page 2 of 2

- f) Ms. Slaughter may not have noticed; however, her co-investigator, Ms. Heather Stewart did check the fire drill chart; and as is charted, one was, in fact, conducted during Ms. Flanagan's 13-day stay on January 18 within the 48-hour requirement.
- i) At the time, I was protecting my resident's confidential information according to the ORS statute (a copy of which was provided to you during hearing).
- h) Lunch was being served. Residents food was getting cold as her meal was interrupted by more county investigators -- not by me assisting her back to her lunch. Pamela has no knowledge of the care level of this resident.
- j) Visitors, who are upsetting to my home and other residents are asked routinely to be taken out for coffee or a drive to visit. The health, safety and welfare of my housebound residents is utmost in my attempt to keep a calm atmosphere in my home at all times. Retaliation was never a factor.
- e) Ms. Flanagan was not a social person and not interested in participating in our activities. We do not force participation.

RECEIVED


APR 16 1996 *OK*

HEARINGS OFFICE

Mr W. W. Shatzer

April 16, 1996

Page 2 of 2

- c) I have a cellular phone on my person *at all times* and have had for a number of years. All home phone calls are also call forwarded to this number.
- d) I have receipts from Safeway showing the foods I purchased prior to Ms. Flanagan transferring to my home showing every special food I could think of at the time especially for Mrs. Flanagan -- Sugar Free Baskin Robbins Ice Cream. Pictures taken by Ms. Slaughter should show that; however, she indicated at hearing that Ms. Fassell and Ms. Gaetjens made the decision not to present those pictures into evidence for some unknown reason.
- b) The call bell system was in place during my relicensing on June 30, 1996. Ms. Carol Isaman had no problem with them at that time.
-  d) Ms. Slaughter states AVI's doctor was never contacted. The attached letter will verify that I had, in fact, contacted Dr. Froom and he returned this signed letter authorizing Ms. Flanagan to self-medicate, as she insisted.

With all due respect, Mr. Shatzer, these probably are not in order, and I have not even attempted to cover all issues, but I think you get the picture. I don't know who helped Ms. Slaughter prepare this affidavit, but obviously they did not know the facts -- perhaps it is due to Ms. Slaughter's inexperience in her position -- 4 months, I believe, she wrote.

So! These are just a few more issues for you to consider.

Respectfully,

ROSEWOOD CARE, INC. (Est'd 1985)


DIANNA J. ROBERTS
OWNER/MANAGER

cc: Katie Gaetjens FAX 823-3377

Attachment (1)


FAX: 292-6495

From: Dr. Donald Froom
9155 S.W. Barnes Rd., Suite 534
Portland, OR 97225

Dear Doctor:

RE: HELEN FLANAGAN

Mrs. Flanagan was transferred to my Adult Foster Care Home this date. She indicates that she is capable of self-medicating. If this is correct, would you please indicate below with your signature.



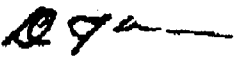
Dr. Donald Froom

1/25/96


Date

Respectfully,

To: ROSEWOOD CARE, INC.


Dianna Roberts
Owner/Manager
19390 N.E. Multnomah Ct.
Portland, OR 97230
(Ph: 666-9121)

Fax: 669-5325

RECEIVED
APR 16 1996 
HEARINGS OFFICE

FAX COVER LETTER

DATE 4/16/96

TO: W.W. Shatzer FAX 823-4347
PHONE 823-7307

FROM: DIANNA ROBERTS - FAX 1503/661-4763 (On 8:00 a.m. to 5:00 p.m.)
PHONE 1503/666-9121

(IF YOU HAVE A PROBLEM SENDING
THE FAX OR ARE TRYING TO SEND ONE
AFTER 5:00 P.M., PLEASE CALL 666-9191
AS I OFTEN TURN IT OFF AT 5:00 P.M.)

PAGES 4 INCLUDING COVER LETTER

COMMENTS _____

RECEIVED
APR 16 1996 *db*
HEARINGS OFFICE

April 12, 1996

Mr. William W. Shatzer
CODE HEARINGS OFFICER
1120 S.W. 5th, Rm. 1017
Portland, OR 97204

Dear Mr. Shatzer:

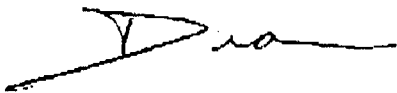
RE: APPEAL # 161035 ROBERTS vs. ACHP

I am in receipt of your letter of April 11, 1996 indicating, "Quite frankly, I am uncertain as to just what it is you wish me to do."

Mr. Shatzer, you ask for a response from me by 4:30 p.m. this date as to why you should not hear arguments regarding Complaint A96-0112 received in January 30, 1996. That letter is my argument. Please regard it as such.

Thank you.

ROSEWOOD CARE, INC.



DIANNA J. ROBERTS
OWNER/MANAGER

cc: Katie Gaetjens

RECEIVED
APR 15 1996
HEARINGS OFFICE

RECEIVED

APR 12 1996 *DS*

HEARINGS OFFICE

**MULTNOMAH COUNTY ADMINISTRATIVE HEARING
FOR THE COUNTY OF MULTNOMAH**

In the Matter of Diana Roberts' Adult Care
Home License Revocation,

No. 161035

**MEMORANDUM OF LAW AND
FACT REGARDING AMENDED
HEARING NOTICE**

FACTS

On November 28, 1995, the Department of Aging Services issued a letter of revocation to Ms. Diana Roberts, a licensed Adult Care Home Operator, based on substantiated violations of the Multnomah County Adult Care Home Program (program) administrative rules. The program had previously issued a series of 30 day suspensions of new admissions to the home pending completion of the complaint investigations.

On February 12, 1996, the program served a notice of a continuing suspension of new admissions to the home pending the outcome of administrative proceedings regarding Ms.

Roberts' license. The notice included the following alleged violations:

1. Resident was not given needed care.
2. Resident was not given proper diet.
3. Resident's visitor was denied access to your home.
4. Resident's mail was read by others without resident's permission.
5. You retaliated against a resident because you thought the resident had made a complaint against your adult care home.

The notice was based on a February 1, 1996 site investigation in which the details of the allegations and most of the findings were discussed with Ms. Roberts. It also informed Ms. Roberts that the notice letter served to amend the notice of revocation of her license and that the more recent violations would be considered additional grounds for the revocation. (February 12, 1996, Exhibit A). On March 21, 1996, the Department personally served the completed complaint investigation report on Ms. Roberts.

ARGUMENT

Amendment of a notice of revocation before hearing is permissible under Oregon law. Ms. Roberts received adequate and timely notice of the additional findings included in the February 12, 1996 amended notice and March 21, 1996 complaint report. Even if the hearings officer finds Ms. Roberts needs more time to prepare a response, the appropriate remedy is to permit her additional time in the instant proceeding.

STATEMENT OF LAW

Neither the Adult Care Home program Rules (MCAR's) nor the Oregon Administrative Procedures Act (APA) expressly prohibit or permit amendment of a notice of revocation or other

sanction notice. The APA does, however, set forth notice requirements for the imposition of sanctions. Although these provisions are not binding on the Multnomah County Aging Services Department, because they apply only to state agencies, they are useful guidance in this matter. ORS 183.415(2)(d) requires that the agency provide a party with "a short and plain statement of the matters asserted or charged." The February 12, 1996 letter provided such notice to Ms. Roberts. ORS 183.415 also requires that the notice provide "a reference to the particular sections of the statutes and rules involved." ORS 183.415(c). This, too was provided in the February 12, 1996 letter. Thus, this letter, alone, provides adequate notice to proceed to hearing.

In an administrative hearing, the written notice of an intended agency action serves the function of a complaint in a judicial proceeding. Silver and Dahlin, "Contested Cases," in Oregon State Bar, State Administrative Law (1985 revision), section 4.11, pp. 4-8, 4-9. Pursuant to ORCP 23E a party may submit supplemental pleadings "setting forth transactions or occurrences or events which have happened since the date of the pleading sought to be supplemented." ORCP 23E requires that such pleadings may be filed at the court's discretion, "upon reasonable notice and upon such terms as are just." There is no reason a notice of an administrative revocation, like a judicial pleading, cannot be supplemented. Indeed, the Court of Appeals affirmed a decision in which later-added violations were considered primarily because "[a]t the time of the hearing on the license renewal, petitioner had received written notice of the other alleged violations." Clafin v. Senior and Disabled Services Division, 107 OrApp 310, 314 (1991).

This analysis is consistent with the principles of due process applicable to administrative law proceedings generally. Davis' and Pierce, in their definitive treatise on administrative law,

have indicated that the fundamental requirements pertinent to such a proceeding are that the individual being sanctioned have "(1) notice of the proposed action and the grounds asserted for it," and (2) an opportunity to present reasons why the action should not be taken." K. Davis and R. Pierce, Administrative Law Treatise, III Ed., vol. II, p. 46.

In this case, written notice of amendment was served on February 12, 1996, or 44 days before the scheduled hearing. More importantly, on February 1, 1996, when program staff investigated the complaints at issue in the February 12, 1996 letter, they shared their findings in detail with Ms. Roberts. See Affidavit of Pamela Slaughter, Exhibit B. Thus, Ms. Roberts had actual notice of the substantive issues long before receipt of the March 21, 1996 complaint report.¹

The ability to amend the notice to permit presentation of evidence regarding later complaints at a revocation hearing is critical to both parties involved. Should a hearing result in revocation of an operator's license without the additional complaints being addressed, the complaints will remain, unrebutted, in the operator's file. The operator will have no opportunity to answer the allegations. If the operator re-applies for a license at a later date, the operator's opportunity to address these complaints will have passed.

Similarly, the agency, under its mandate to protect residents in adult care homes, needs to maintain as complete and accurate file on all operators as possible. The inability to amend a petition, under reasonable terms, would effect an unnecessary hardship on both parties.

¹ We note that under MCAR 890-110-115(h) the Department's failure to meet timelines in complaint investigations does not waive the Department's authority to take administrative action. We also note that Ms. Roberts began seeking continuances even before the February 1 investigation occurred.

Finally, if the hearings officer believes Ms. Roberts did not have adequate time to prepare her response to the February 12, 1996 notice of revocation, we believe that the appropriate response is to permit her a brief continuance. To address these issues in the current hearing process is a more effective use of time for both parties and for the hearings officer. Moreover, it is critical that this matter be concluded promptly for the welfare of the elderly residents still in the home.

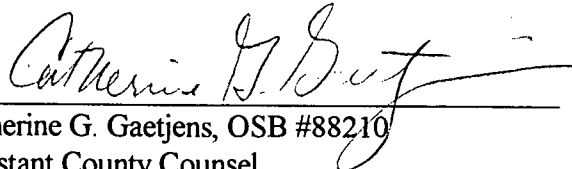
CONCLUSION

The amendment of a notice of sanction in an administrative hearing is permissible under Oregon law as long as the person has reasonable notice and an opportunity to respond. Ms. Roberts had adequate and timely notice of the issues in the February 12, 1996 letter and the March 21, 1996 complaint report. Evidence regarding the issues contained in the amended notice should be heard in this proceeding. Failure to hear the issues would result in a potential hardship to both parties, and to the residents in the adult care home.

DATED this 12th day of April, 1996.

Respectfully submitted,

LAURENCE KRESSEL, COUNTY COUNSEL
FOR MULTNOMAH COUNTY, OREGON

By: 
Catherine G. Gaetjens, OSB #88210
Assistant County Counsel
Of Attorneys for the Department of Aging Services



MULTNOMAH COUNTY OREGON

AGING SERVICES DIVISION (503) 248-3646
ADULT CARE HOME PROGRAM (503) 248-3000
FAX: (503) 306-5722
421 SW 5TH, ROOM 405
PORTLAND, OR 97204-2221

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN • CHAIR OF THE BOARD
DAN SALTZMAN • DISTRICT 1 COMMISSIONER
GARY HANSEN • DISTRICT 2 COMMISSIONER
TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

CERTIFIED MAIL

February 12, 1996

Ms. Dianna Roberts
19390 N.E. Multnomah Court
Portland, Oregon 97230

RECEIVED

FEB 16 1996
COUNTY CLERK FOR
MULTNOMAH COUNTY, OR

Dear Ms. Roberts:

The Adult Care Home Program has received another complaint against your home alleging the following:

1. Resident was not given needed care.
2. Resident was not given the proper diet.
3. Resident's visitor was denied access to your home.
4. Resident's mail was read by others without resident's permission.
5. You retaliated against a resident because you thought the resident had made a complaint against your adult care home.

Our preliminary investigation indicates that the complaint is at least in part substantiated and that the resident may have been in serious danger due to lack of necessary care and supervision.

There are also indications that you falsely represented the care and services available in your adult care home to this resident.

During the investigation you refused Adult Care Home Program staff access to the records in your home and were extremely uncooperative, to the point that investigators had to call for police standby assist to finish their investigation. Your actions are in violation of Multnomah County Administrative Rule (MCAR) 890-020-260 (a).

In order to protect the health, safety and welfare of residents in your home the following condition is now placed on your license:

New admissions are suspended in your home until a final decision is received from any hearings and appeals on the revocation of your license to operate an adult care home.

EXHIBIT A
PAGE 1 OF 2

The Adult Care Home Program has the authority to impose this condition on your license according to Multnomah County Licensing Ordinance 8.90.080, which states:

(A) The Director shall have the authority to...attach conditions to any license of an adult care home under the following circumstances...(2) where there exists a threat to the life, health, safety or welfare of any resident, (3) where there is reliable evidence of abuse, neglect or exploitation of any resident, and (4) when the owner or operator has failed to comply with the provisions of [the Ordinance]; with city and ordinances; with the rules and standards duly promulgated by the Director for an adult care home; or any other state or federal law or rule applicable or relevant to the health and safety of a resident.

This letter shall also serve as an amendment to the notice of revocation of your license. The issues raised in this most recent complaint and its investigation are additional reasons for the revocation of your license.

You may request a conference with Jean DeMaster, the program manager, regarding this decision. To do so, call me at 248-3000, extension 2624.

You also have a right to a hearing to appeal this decision. To do so send a written request for a hearing, stating your reasons for requesting the hearing, to the Adult Care Home Program, 421 S.W. Fifth St., Room 405, Portland, Oregon 97204. To request a hearing this office must receive your request no later than 20 days after you receive this letter. If you request a hearing but do not come to it, our files on the case would automatically become part of the case record for the purpose of proving a prima facie case.

Please call me if you have any questions.

Sincerely,

Mary M. Fassell

Mary M. Fassell, Sanction Specialist
Multnomah County Adult Care Home Program

c: Carole Isaman
Jean DeMaster
Catherine Gaetjens, County Counsel

MULTNOMAH COUNTY ADMINISTRATIVE HEARING

In the Matter of the	)	No. <u>161035</u>
Revocation of)	
Dianna Roberts'	)	Affidavit of Pam Slaughter
Adult Care Home License	)	In Support of Multnomah County
)	
)	

I, Pam Slaughter, being duly sworn, depose and say:

1. I am a Protective Service Investigator for the Multnomah County Aging Services Department. I have held this position for 4 months.

2. On February 1, 1996, I went with Heather Stewart, the Adult Care Home Program Registered Nurse, to investigate a complaint about the care being provided at the adult care home licensed to and operated by Ms. Dianna Roberts at 19390 N.E. Multnomah Court, Portland, Oregon 97230, and to assess whether or not the residents were in imminent danger at the ACH.

3. During the investigation, we spoke with Ms. Roberts at length about the complaint we had received, and about the additional concerns that arose during the course of the investigation itself.

4. I wrote the complaint report (Complaint Form #A960112) following this investigation, which was delivered to Ms. Roberts in its entirety on March 21, 1996. Ms. Roberts was informed about many of the factual findings and some of the conclusions contained in the report during the February 1, 1996 site visit.

5. Although our staff did not identify AV1 by name to Ms. Roberts, she correctly named the resident involved and used this name throughout our discussion. This was the resident about whom most of the allegations had been made. This resident had moved out the day before our visit. There is no doubt in my mind that Ms. Roberts understood the person involved.

6. Specific findings which were discussed with Ms. Roberts include the following:

a. That the foods necessary to prepare the meals she indicated she was serving were not available and that the meal she was serving when we arrived was not adequate and did not match the menu.

b. That she offered 24 hour care according to her brochure, but in fact could not be reached at night by phone or otherwise. She said she had installed a call bell system, but when tested we established that it could not be heard past the doorway.

c. That she had no emergency phone available when she was not on the premises and that an attempt to reach her by the number she did provide had resulted in reaching only her voice mail.

d. That she did not have the materials necessary to prepare the special diet necessary for a diabetic resident with renal failure in that there were no scales, no written meal plans available and she had never contacted AV1's doctor.

e. That she had an activity schedule posted that was not followed.

f. That we could find no evidence that she had held a fire drill and that AV1 alleged that none had occurred while she was in Ms. Roberts' home. New residents are supposed to be given a fire drill within 48 hours.

g. That her refusal to cooperate with investigators was itself a rule violation.

h. That her treatment of AV2 in my presence was rude and demeaning and that the AV2 had a right to use her room.

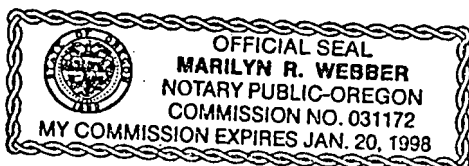
i. That no records were ever made for AV1.

j. That a complaint had been received regarding her refusal to let a resident's peer counselor visit the resident in the home.

7. I believe that as of February 1, 1996, Ms. Roberts was aware of the vast majority of our findings regarding alleged care violations in her home. Although she did not receive the completed report until March 21, 1996, most of the information it contained was already known to her.

Pamela Slaughter
Pam Slaughter

SUBSCRIBED AND SWORN TO before me this 11 day of April, 1996.



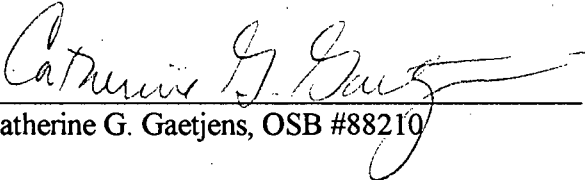
Marilyn R. Webber
NOTARY PUBLIC FOR OREGON
My Commission Expires: 1-20-98

CERTIFICATE OF FACSIMILE SERVICE

I hereby certify that on the 12th day of April, 1996, I served the within **MEMORANDUM OF LAW REGARDING AMENDED HEARING NOTICE** on the following individual listed below, by a telephone facsimile communication device to the number listed below, of which the printed confirmation of receipt is attached:

Ms. Diana Roberts
19390 N.E. Multnomah Court
Portland, Oregon 97230

(503) 661-4763


Catherine G. Gaetjens, OSB #88210

Will be faxed later
today - confirmation
slip will follow.

NEILSON KOGA

4/12/96



CITY OF
PORTLAND, OREGON
HEARINGS OFFICE

1120 S.W. 5th Avenue, Room 1017
Portland, Oregon 97204-1960
Land Use Hearings (503) 823-7719
Code/Towing Hearings (503) 823-7307
FAX (503) 823-4347
TDD (503) 823-6868

April 11, 1996

Ms. Dianna Roberts
19390 N.E. Multnomah Court
Portland, OR 97230

SUBJECT: Appeal of Dianna Roberts, Case No. 161035; your letter of April 10, 1996

Dear Ms. Roberts:

This will acknowledge receipt of your letter of April 10, 1996.

Quite frankly, I am uncertain as to just what it is you wish me to do.

A copy of all your correspondence to this office should be provided Ms. Gaetjens at the County Counsel's Office, and your correspondence should indicate that such a copy has been provided.

Very truly yours,

WILLIAM W. SHATZER
CODE HEARINGS OFFICER

WWS:db

cc: Katie Gaetjens (with copy of Ms. Roberts' correspondence)

Mr. William W. Shatzer
HEARING CODE OFFICER
City of Portland
1120 S.W. 5th, Rm. 1017
Portland, OR 97204-1960

Dear Mr. Shatzer:

RE: APPEAL HEARING #161035 - DIANNA J. ROBERTS vs. ACHP

With regard to subject Appeal Hearing and your deferred exhibits and testimony on a Complaint # A96-0112 dated 1/30/96, copies of the findings of this complaint were not delivered to me until March 21, 1996 by Jayna Indeck of the ACHP.

If you will reference the enclosed photo copies, I have attempted, to the best of my ability, of adhere to the MCAR's governing Adult Care Homes as is Jean DeMaster in her letter of March 29, 1996 offering to set up a conference. The purpose of these conferences are, "to review the sanction and/or the deficiencies and violations cited, and to provide information to the operator which can assist in achieving satisfactory compliance within required time limits." (890.080.340)

These MCAR's are very specific as to time frame requirements. I have met **ALL** these requirements with regard to the complaint in question.

I received the letter of revocation of my license on November 30, 1995. With all due respect, Mr. Shatzer, Mary's letter of February 12, 1996 is a mere attempt to circumvent the MCAR's and undermine Operator's Rights.

I, respectfully, request that you not allow this flagrant violations of the MCAR's. This complaint must be dealt with according to the time frame/requirements outlined in the MCAR's.

Respectfully,

ROSEWOOD CARE, INC. (Est'd 1985)


DIANNA ROBERTS
OWNER/MANAGER



MULTNOMAH COUNTY OREGON

AGING SERVICES DIVISION (503) 248-3646
ADULT CARE HOME PROGRAM (503) 248-3000
421 SW 5TH, ROOM 405
PORTLAND, OR 97204-2221

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN • CHAIR OF THE BOARD
DAN SALTZMAN • DISTRICT 1 COMMISSIONER
GARY HANSEN • DISTRICT 2 COMMISSIONER
TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

3/29/96

Dianna Roberts
Owner/Manager
Rosewood Care, Inc.
19390 NE Multnomah Court
Portland, Oregon 97230

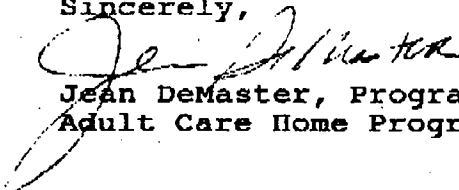
Dear Dianna,

You have requested a conference and a hearing regarding Complaint # A96-0112 which you indicate is dated 1/30/96.

I have referred this matter to Mary Fassell who will be calling you to set a date for the Administrative Conference. In addition, the Adult Care Home Program will request that the Hearings Officer schedule a hearing on this matter as soon as that is possible.

Please let me know if this is not acceptable to you.

Sincerely,


Jean DeMaster, Program Manager
Adult Care Home Program

AN EQUAL OPPORTUNITY EMPLOYER

April 10, 1996

04/10/96 16:17 TX/RX NO.1205 P.001

March 1, 1996

Jean DeMaster, Manager
Adult Care Home Program
Multnomah County Oregon
421 S.W. 5th, Room 405
Portland, OR 97204

Dear Ms. DeMaster:

**RE: MARY FASSELL'S LETTER DATED 2-12-96 — SANCTIONS
SUSPENSIONS OF NEW ADMISSIONS TO MY HOME UNTIL FINAL ORDER**

In accordance with the MCAR's and to protect my rights as outlined in subject regulations, I respectfully request a **HEARING** to refute the allegations outlined in Mary's letter.

Regards,

ROSEWOOD CARE, INC.


Dianna J. Roberts
Owner/Manager

References: MCAR 890.080.320 & 340
MCAR 890.080.240 (h)

MCAR 890.090.140, "If an operator makes a timely written request for a hearing to appeal an administrative sanction imposed for reasons other than a finding of imminent danger to the residents, the sanctions shall not become effective unless and until sustained by a final order."

MCAR 890.090.120, "The Director's decision or order shall become final **IF** a written request to the Director for a hearing, as required by MCC 8.90.090 (A), is **NOT** filed within twenty (20) days, at the office of the Adult Care Home Program, 421 S.W. 5th, 97204.

March 22, 1996

CERTIFIED MAIL - P 474 616 227

Jean DeMaster, Manager
Adult Care Home Program
Aging Services Division
Multnomah County Oregon
421 S.W. 5, Rm. 405
Portland, OR 97204

Re: Complaint # Log A96-0112 - 1/30/96

Dear Ms. DeMaster:

Regarding subject complaint, I would like to request a **CONFERENCE AND HEARING**, as required in the MCAR's to contest these allegations and the investigator's findings.

Regards,

ROSEWOOD CARE, INC.



Dianna J. Roberts
Owner/Manager

cc: Carol Isaman
Public File

Reference: MCAR 890.080.320-330 & 340
MCAR 890.080.240 (h)

MCAR 890.090.140, "If an operator makes a timely written request for a hearing to appeal an administrative sanction imposed for reasons other than a finding of imminent danger to the residents, the sanction shall not become effective unless and until sustained by a final order." **IMMINENT DANGER NEVER SITED!**

MCAR 890.090.120, "The Director's decision or order shall become final **IF** a written request to the Director for a hearing, as required by MCC 8.90.090 (A), is **NOT** filed within (20) days, at the office of the Adult Care Home Program, 421 S.W. 5th, 97204. **COMPLAINT DELIVERED ON 3/21/96 BY JAYNA**

March 1, 1996

Jean DeMaster, Manager
Adult Care Home Program
Multnomah County Oregon
421 S.W. 5th, Room 405
Portland, OR 97204

Dear Ms. DeMaster:

**RE: MARY FASSELL'S LETTER DATED 2-12-96 -SANCTIONS
SUSPENSION OF NEW ADMISSIONS TO MY HOME UNTIL FINAL ORDER**

In accordance with the MCAR'S and to protect my rights as outlined in subject regulations, I respectfully, request a **CONFERENCE** with you to refute allegations outlined in Mary's letter.

Regards,

ROSEWOOD CARE, INC.



Dianna J. Roberts
Owner/Manager

Reference: MCAR 890.080.320-330 & 340
MCAR 890.080.240 (h)

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MCAR 890.090.120, "The Director's decision or order shall become final **IF** A written request to the Director for a hearing, as required by MCC 8.90.090 (A), is **NOT** filed within twenty (20) days, at the office of the Adult Care Home Program, 421 S.W. 5th, 97204.

April 10, 1996

FAX 823-4347 & CERTIFIED

Mr. William W. Shatzer
HEARING CODE OFFICER
City of Portland
1120 S.W. 5th, Rm. 1017
Portland, OR 97204-1960

Dear Mr. Shatzer:

RE: APPEAL HEARING #161035 - DIANNA J. ROBERTS vs. ACHP

With regard to subject Appeal Hearing and your deferred exhibits and testimony on a Complaint # A96-0112 dated 1/30/96, copies of the findings of this complaint were not delivered to me until March 21, 1996 by Jayna Indeck of the ACHP.

If you will reference the enclosed photo copies, I have attempted, to the best of my ability, of adhere to the MCAR's governing Adult Care Homes as is Jean DeMaster in her letter of March 29, 1996 offering to set up a conference. The purpose of these conferences are, "to review the sanction and/or the deficiencies and violations cited, and to provide information to the operator which can assist in achieving satisfactory compliance within required time limits." (890.080.340)

These MCAR's are very specific as to time frame requirements. I have met ALL these requirements with regard to the complaint in question.

I received the letter of revocation of my license on November 30, 1995. With all due respect, Mr. Shatzer, Mary's letter of February 12, 1996 is a mere attempt to circumvent the MCAR's and undermine Operator's Rights.

I, respectfully, request that you not allow this flagrant violations of the MCAR's. This complaint must be dealt with according to the time frame/requirements outlined in the MCAR's.

Respectfully,

ROSEWOOD CARE, INC. (Est'd 1985)



DIANNA ROBERTS
OWNER/MANAGER



HEALTH CARE FACILITIES

441.615

441.605 Legislative declaration of rights intended for residents. It is the intent of the Legislative Assembly that facilities guarantee at a minimum that each resident has the right to be:

(1) Fully informed of all resident rights and all facility rules governing resident conduct and responsibilities.

(2) Fully informed which services are available and of any additional charges not covered by the daily rates or by Medicare or Medicaid.

(3) Informed by a physician of the medical condition of the resident unless medically contraindicated in the medical record, and given the opportunity to participate in planning medical treatment and to refuse experimental research.

(4) Transferred or discharged only for medical reasons, or for the welfare of the resident or of other residents of the facility, or for nonpayment and to be given reasonable advance notice to insure orderly transfer or discharge.

(5) Encouraged and assisted while in the facility to exercise rights as a citizen, and to voice grievances and suggest changes in policies and services to either staff or outside representatives without fear of restraint, interference, coercion, discrimination or reprisal.

(6) Allowed either to manage personal finances or be given a quarterly report of account if the facility has been delegated in writing to carry out this responsibility.

(7) Free from mental and physical abuse and assured that no chemical or physical restraints will be used except on order of a physician.

(8) Assured that medical and personal records are kept confidential and unless the resident transferred, or examination of the records is required by the third party payment contractor, are not released outside the facility. However, nothing in this subsection is intended to prevent a resident from authorizing access to the resident's medical and personal records by another person.

(9) Treated with respect and dignity and assured complete privacy during treatment and when receiving personal care.

(10) Assured that the resident will not be required to perform services for the facility that are not for therapeutic purposes as identified in the plan of care for the resident.

(11) Allowed to associate and communicate privately with persons of the resident's choice and send and receive personal mail unopened unless medically contraindicated by the attending physician in the medical record of the resident.

(12) Allowed to participate in activities of social, religious and community groups at the discretion of the resident unless medically contraindicated.

(13) Able to keep and use personal clothing and possessions as space permits unless to do so infringes on other residents' rights and unless medically contraindicated and upon the resident's request and the facility management's consent have access to a private locker, chest or chest drawer that is provided by the resident or the facility that is large enough to accommodate jewelry and small personal property and that can be locked by the resident although both the resident and the facility management may have keys.

(14) Provided, if married, with privacy for visits by the resident's spouse. If both spouses are residents in the facility, they are permitted to share a room.

(15) Not required to sign a contract or waiver that waives the resident's right to collect payment for lost or stolen articles. [1979 c.261 §4; 1981 c.326 §1; 1987 c.397 §1]

441.610 Nursing home patients' bill of rights; adoption; standards. (1) The division shall adopt a nursing home patients' bill of rights consistent with the principles set forth in ORS 441.605. The rules shall be applicable to all residents and as far as practicable shall conform to any federal nursing home patients' bill of rights.

(2) The division shall periodically review the rules to assure that they meet the principles set forth in ORS 441.605 and that they are in conformity with federal standards but in no case shall the rules be less protective than required by ORS 441.605.

(3) The division shall be guided by federal interpretative standards in its enforcement of the nursing home patients' bill of rights. [1979 c.261 §5; 1987 c.397 §2]

441.615 Powers and responsibilities of division. In the administration of ORS 441.600 to 441.625, 441.710 and 441.715, the division shall have the following powers and responsibilities:

(1) To inspect any facility and the records of any facility to insure compliance with ORS 441.600 to 441.625, 441.710 and 441.715.

(2) To adopt rules in accordance with ORS 183.310 to 183.550, including but not limited to procedures for investigations and administrative hearings.

(3) To file complaints and initiate proceedings for the enforcement of ORS 441.600 to 441.625, 441.710 and 441.715 or of rules adopted under ORS 441.600 to 441.625, 441.710 and 441.715.

Post-it brand fax transmittal mx

7671

of pages ▶

To	From Cheryl
Co. General Counsel	
WA Co Aging	Phone 378-4620
Dept.	Fax #
	640-6167

April 3, 1996

FAX 823-4347 & CERTIFIED

Mr. William W. Shatzer
HEARINGS CODE OFFICER
City of Portland
1120 S.W. 5th, Rm 1017
Portland, OR 97204-1960

Dear Mr. Shatzer:

RE: REQUEST FOR CONTINUANCE
APPEAL HEARING #161035 - DIANNA J. ROBERTS

With all due respect, Mr. Shatzer, I request a continuance of the subject hearing until a legal opinion has been provided to me regarding the issue of **Complaint # A96-0112**. Please reference the attached letter dated March 29, 1996 from Jean DeMaster offering to set up a date for an Administrative Conference on this complaint.

Since you received testimony **last week** from 5 witnesses from the prosecution regarding this complaint during the 2 days of the subject hearing, it is my position that I have not been afforded due process. They were:

- 1) Faye Brown (Volunteer with Mt. Hood Mental Health)
- 2) Bill Ryan (Mt. Hood Mental Health)
- 3) Dane Brown (Flanagan)
- 4) Helen Flanagan (13-day resident of my home in February, 1996)
- 5) Pam Slaughter (ASD)

Heather Stewart, ACH Program, is scheduled to testify, also; as she was in my home with Pam Slaughter investigating this complaint. **Copies of their report were only delivered to me on March 21, 1996 by Jayna Indeck, ACH Program.**


Please advise via FAX 661-4763, or phone 666-9121.

Respectfully,

ROSEWOOD CARE, INC. (Est'd 1985)


DIANNA J. ROBERTS
OWNER/MANAGER

RECEIVED

APR 3 1996 

HEARINGS OFFICE

cc: Katie Gaetjens, Assist. Multnomah County Counsel FAX 248-3377



MULTNOMAH COUNTY OREGON

AGING SERVICES DIVISION (503) 248-3848
ADULT CARE HOME PROGRAM (503) 248-3000
421 SW 5TH, ROOM 405
PORTLAND, OR 97204-2221

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN • CHAIR OF THE BOARD
DAN SALTZMAN • DISTRICT 1 COMMISSIONER
GARY HANSEN • DISTRICT 2 COMMISSIONER
TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

3/29/96

Dianna Roberts
Owner/Manager
Rosewood Care, Inc.
19390 NE Multnomah Court
Portland, Oregon 97230

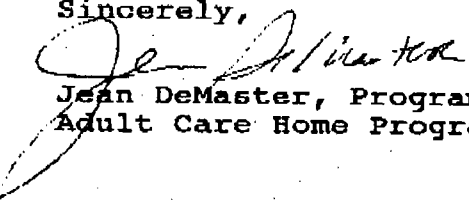
Dear Dianna,

You have requested a conference and a hearing regarding Complaint # A96-0112 which you indicate is dated 1/30/96.

I have referred this matter to Mary Fassell who will be calling you to set a date for the Administrative Conference. In addition, the Adult Care Home Program will request that the Hearings Officer schedule a hearing on this matter as soon as that is possible.

Please let me know if this is not acceptable to you.

Sincerely,


Jean DeMaster, Program Manager
Adult Care Home Program

RECEIVED
APR 3 1996
HEARINGS OFFICE

AN EQUAL OPPORTUNITY EMPLOYER

ADDRESS: 19390 NE Multnomah Ct. Portland, OR 97220		666-9121	METHOD OF CONTACT unannounced visit
DATE/TIME OF INCIDENT: ongoing		DATE/TIME ARRIVED 1/30/96	RECEIVED BY: Mary Gingell
REFERRED TO: Pam Slaughter		DATE INVESTIGATED 2/1/96	INVESTIGATION TIME 1:30 pm
DESCRIPTION OF PROBLEM: (who, what, when, where) DO NOT USE NAMES.			
<p>Allegation 1 API denied the AV1 the right to have Witness 2 visit AV1 at the Adult Care Home. Potential violation of MCAH 890-020-410(c), Resident Rights</p> <p>Allegation 2 API reads the mail of the residents Potential violation of MCAH 890-020-415(h), Resident Rights</p> <p>Allegation 3 API didn't provide the AV1 with AV1's special diet needs Potential violation of MCAH 890-020-470(b), Special diets</p>			
Category (10)			
			Log # A96011

*Revised & Refined
Official Complaint*

RECEIVED

MAR 29 1996

HEARINGS OFFICE

FAX COVER LETTER

DATE 3/29/96

TO: Wm Shatzner FAX 823-4347
PHONE _____

FROM: DIANNA ROBERTS - FAX 1503/661-4763 (On 8:00 a.m. to 5:00 p.m.)
PHONE 1503/666-9121
(IF YOU HAVE A PROBLEM SENDING
THE FAX OR ARE TRYING TO SEND ONE
AFTER 5:00 P.M., PLEASE CALL 666-9191
AS I OFTEN TURN IT OFF AT 5:00 P.M.)

PAGES _____ INCLUDING COVER LETTER

COMMENTS Ruth ex Darla, please make
sure gets this ASAP this AM.
Thanks!

RECEIVED

MAR 29 1996

HEARINGS OFFICE

INFORMATION IN THIS SECTION IS NOT CONFIDENTIAL

OPERATOR'S NAME: Diana Roberts

PHONE#

03/29/96 08:20

TX/RX NO.1125

P.001

March 27, 1996 AND March 28, 1996

SECOND REQUEST

VIA FAX 823-4347

William W. Shatzer
Code Hearings Officer
City of Portland
1120 S.W. 5th, Rm. 1017
Portland, OR 97204

Dear Mr. Shatzer:

RE: APPEAL HEARING # 161035 - DIANNA ROBERTS

Subject hearing is scheduled for 1:30 p.m. Thursday, March 28, 1996. To avoid any potential problems, I, respectfully, request that any witnesses be excluded from the Hearings Room until they are called to testify. During Hearings, which I have attended in the past, there appeared to be instances of corroboration between witnesses.

Regards,

ROSEWOOD CARE, INC. (Est'd 1985)



Dianna J. Roberts
Owner/Manager

cc: Laurence Kressel, County Counsel FAX 248-3377

P.S. Mr. Shatzner, in the past hearings that I have attended, a table and chairs were set up outside the door for the comfort of witnesses. There is, also, a very nice coffee shop one floor down from this hearing room for witnesses to wait *'comfortably'*. I urge you to reconsider this request that witness not be allowed in the Hearings Room, since you indicated yesterday that you did not receive my 1st request.

RECEIVED

MAR 29 1996

HEARINGS OFFICE

March 27, 1996

VIA FAX 823-4347

William W. Shatzer
Code Hearings Officer
City of Portland
1120 S.W. 5th, Rm. 1017
Portland, OR 97204

Dear Mr. Shatzer:

RE: APPEAL HEARING # 161035 - DIANNA ROBERTS

Subject hearing is scheduled for 1:30 p.m. Thursday, March 28, 1996. To avoid any potential problems, I, respectfully, request that any witnesses be excluded from the Hearings Room until they are called to testify. During Hearings, which I have attended in the past, there appeared to be instances of corroboration between witnesses.

Regards,

ROSEWOOD CARE, INC. (Est'd 1985)



Dianna J. Roberts
Owner/Manager

cc: Laurence Kressel, County Counsel FAX 248-3377

RECEIVED
MAR 29 1996
HEARINGS OFFICE

March 28, 1996

VIA FAX 823-4347

Mr. William W. Shatzner
HEARINGS CODE OFFICER
City of Portland
1120 S.W. 5th. Rm. 1017
Portland, OR 97204

Dear Mr. Shatzner.

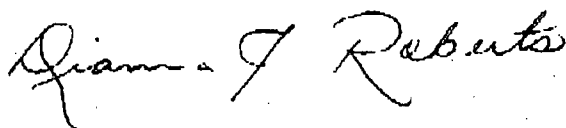
RE: APPEAL HEARING # 161035 - DIANNA J. ROBERTS - OBJECTIONS
1:30 P.M. - THURSDAY - MARCH 28, 1996

Mr. Shatzner, I am forwarding copies of my objections to you prior to the scheduled hearing this afternoon as a courtesy for your information.

Since you have repeatedly refused my continuance requests, you will see me at the scheduled time.

VERY TRULY YOURS,

ROSEWOOD CARE, INC. (Est'd 1985)



DIANNA J. ROBERTS
OWNER/MANAGER

cc: Mr. Laurence Kressel, County Counsel - FAX 248-3377

RECEIVED

MAR 28 1996

HEARINGS OFFICE

ON THE RECORD

I OBJECT TO THIS HEARING AND APPEAR UNDER PROTEST

HEARING # 161035

- 1) **DUE TO THE FACT THAT I HAVE NOT BEEN PROVIDED THE DOCUMENTATION REQUESTED FROM MARY FASSELL NECESSARY FOR MY PREPARATION FOR THIS HEARING, ALTHOUGH REPEATED REQUESTS HAVE NOT BEEN ACKNOWLEDGED.**



DIANNA J. ROBERTS



DATE

RECEIVED

MAR 28 1996

HEARINGS OFFICE

ON THE RECORD

I OBJECT TO THIS HEARING AND APPEAR UNDER PROTEST


HEARING # 161035

- 1) **DUE TO THE FACT THAT I, NOR MY ADULT CARE HOME IS WITHIN THE CITY LIMITS OF PORTLAND. I, RESPECTFULLY REQUEST THAT THIS HEARING BE MOVED TO MY CITY OF RESIDENCY, WHICH IS GRESHAM.**

I DO NOT RECOGNIZE ANY AUTHORITY IMPOSED UPON ME BY AN INDIVIDUAL CITY OF PORTLAND HEARINGS OFFICER. THESE HEARINGS SHOULD CONSIST OF NO LESS THAN A PANEL OF 3 INDIVIDUALS.



DIANNA J. ROBERTS



DATE

RECEIVED

MAR 28 1996

HEARINGS OFFICE

ON THE RECORD

I OBJECT TO THIS HEARING AND APPEAR UNDER PROTEST

HEARING # 161035

- 1) **MCAR 890.110.115 COMPLIANT INVESTIGATIONS - "(a) ALL INVESTIGATIONS WILL BE COMPLETED WITHIN 60 DAYS,"**

MCAR 890.110.115 - "(g) THE DEPARTMENT WILL MAIL A COPY OF THE INVESTIGATION REPORT TO THE FOLLOWING PEOPLE (ONE BEING THE OPERATOR) WITHIN 7 DAYS OF THE COMPLETION OF THE INVESTIGATION REPORT."

NEITHER OF THE ABOVE MCAR'S WERE FOLLOWED BY THE STAFF OF MULTNOMAH COUNTY AGING SERVICES DIVISION. THE DIVISION FLAGRANTLY VIOLATES ITS OWN RULES AND REGULATIONS, BUT IS ALLOWED TO IMPOSE FINES AND SANCTIONS UPON ADULT CARE HOME PROVIDERS, WHEN THEY ARE UNABLE TO PRIMARILY BECAUSE THE RULES ARE MUCH TOO CUMBERSOME.


DIANNA J. ROBERTS


DATE

RECEIVED

MAR 28 1996

HEARINGS OFFICE

ON THE RECORD

I OBJECT TO THIS HEARING AND APPEAR UNDER PROTEST

HEARING # 161035

- 1) **DUE TO THE FACT THAT MR. SHATZNER HAS REPEATEDLY DENIED A CONTINUANCE OF THIS HEARING EVEN THOUGH HE HAS BEEN INFORMED THAT I DO NOT HAVE LEGAL COUNSEL AVAILABLE TO ME AT THIS TIME. THE RUTHERFORD INSTITUTE INFORMED ME ONLY THIS WEEK THAT THEY WOULD NOT BE ABLE TO REPRESENT ME AFTER SEVERAL WEEKS OF ANTICIPATION THAT THEY WOULD BE.**



DIANNA J. ROBERTS



DATE

RECEIVED
MAR 28 1996
HEARINGS OFFICE

ON THE RECORD

I OBJECT TO THIS HEARING AND APPEAR UNDER PROTEST

HEARING # 161035

- 1) **DUE TO THE OPEN AND ONGOING INVESTIGATION OF COMPLAINTS AGAINST MARY FASSELL, THE PROSECUTING ATTORNEY FOR THE ADULT CARE HOME PROGRAM HERE TODAY. THESE COMPLAINTS HAVE BEEN BROUGHT AGAINST MARY, NOT ONLY BY MYSELF, BUT SEVERAL OTHER ADULT CARE PROVIDERS IN MULTNOMAH COUNTY. I ALLEGE MARY IS AND HAS BEEN RETALIATING AGAINST ME THROUGHOUT ALL OF 1995 FOR THESE COMPLAINTS, AS WELL AS OTHERS BROUGHT AGAINST HER, AND IS COMPLETELY UNABLE TO PROSECUTE THIS CASE WITHOUT BIAS.**

THIS INVESTIGATION IS ONGOING WITH THE OREGON STATE BAR.


DIANNA J. ROBERTS


DATE

RECEIVED

MAR 28 1996

HEARINGS OFFICE

ON THE RECORD

I OBJECT TO THIS HEARING AND APPEAR UNDER PROTEST

HEARING # 161035

- 1) **DUE TO THE FACT THAT THESE 'HEARINGS' VIOLATE MY CONSTITUTIONAL RIGHT TO BE HEARD BY A PANEL, AS IN JURY OF MY PEERS. THIS PROCEDURE OF ONLY (1) HEARINGS OFFICER IS UNACCEPTABLE AND CURRENTLY UNDER INVESTIGATION BY THE OREGON ATTORNEY GENERAL'S OFFICE AND THE GOVERNOR'S OFFICE. I, RESPECTFULLY, REQUEST THAT ALL HEARINGS BE CONTINUED UNTIL THESE INVESTIGATIONS ARE COMPLETED.**



DIANNA J. ROBERTS



DATE

RECEIVED

MAR 28 1996

HEARINGS OFFICE

ON THE RECORD

I OBJECT TO THIS HEARING AND APPEAR UNDER PROTEST

HEARING # 161035

- 1) **MCAR 890-090-310, "ANY PARTY HAS A RIGHT TO BE REPRESENTED BY ATTORNEY." SINCE I DO NOT HAVE THE RESOURCES TO RETAIN AN ATTORNEY, I RESPECTFULLY, REQUEST THAT, MR. WILLIAM W. SHATZNER, THE HEARINGS CODE OFFICER ARRANGE FOR AN ATTORNEY OF MY CHOICE.**

I RESPECTFULLY REQUEST THAT THIS ATTORNEY'S FEES BE PAID BY MULTNOMAH COUNTY, IN LIEU OF THE FACT THAT MULTNOMAH COUNTY IS PAYING THE SALARIES OF THEIR ATTORNEY, MARY FASSELL, AND ALL THE WITNESSES SHE PLANS TO CALL.



DIANNA J. ROBERTS



DATE

RECEIVED
MAR 28 1996
HEARINGS OFFICE

ON THE RECORD

I OBJECT TO THIS HEARING AND APPEAR UNDER PROTEST

HEARING # 161035

- 1) **DUE TO MCAR 890-080-330, "AN ADMINISTRATIVE CONFERENCE SHALL BE SCHEDULED AS SOON AS POSSIBLE AND NO LATER THAN TEN (10) DAYS FROM A REQUEST FOR SUCH A MEETING. " THIS WAS DONE IN WRITING FROM THREE (3) DIFFERENT ATTORNEYS DURING 1995; HOWEVER THE AGING SERVICES DIVISION FAILED TO SCHEDULE A CONFERENCE OR ACKNOWLEDGE MY ATTORNEY'S REQUEST.**

DJR

DIANNA J. ROBERTS

3-28-96

DATE

RECEIVED

MAR 28 1996

HEARINGS OFFICE

ON THE RECORD

I OBJECT TO THIS HEARING AND APPEAR UNDER PROTEST

HEARING # 161035

- 1) DUE TO THE FACT THAT THIS HEARING IS BASED ON ALLEGATIONS OF AN ANONYMOUS NATURE.**

BY VIRTUE OF THIS FACT, IT IS IMPOSSIBLY TO DEFEND MYSELF AGAINST VIRTUAL 'GHOST'.

IT IS MY POSITION, AS WELL AS NUMEROUS OTHER ADULT CARE PROVIDERS IN MULTNOMAH COUNTY THAT THESE ALLEGATIONS HAVE THE POTENTIAL OF BEING FABRICATED BY THE STAFF OF THE ADULT CARE HOME PROGRAM IN RETALIATION.

DOCUMENTATION REQUESTED FROM MARY FASSELL NECESSARY FOR MY PREPARATION FOR THIS HEARING, ALTHOUGH REPEATED REQUESTS HAVE NOT BEEN ACKNOWLEDGED.



DIANNA J. ROBERTS



DATE

RECEIVED

MAR 28 1996

HEARINGS OFFICE



CITY OF
PORTLAND, OREGON
HEARINGS OFFICE

1120 S.W. 5th Avenue, Room 1017
Portland, Oregon 97204-1960
Land Use Hearings (503) 823-7719
Code/Towing Hearings (503) 823-7307
FAX (503) 823-4347
TDD (503) 823-6868

March 27, 1996

Ms. Dianna Roberts
19390 N.E. Multnomah Court
Portland, OR 97230

via fax to 661-4763

SUBJECT: Appeal of Dianna Roberts, No. 161035

Dear Ms. Roberts:

There will be no further continuances in this matter

You should be prepared to proceed on the afternoon of March 28.

Very truly yours,

**WILLIAM W. SHATZER
CODE HEARINGS OFFICER**

WWS:db

cc: Mary Fassell, Multnomah County Adult Care Home Program
(via fax to 306-5722)
Katie Gaetjens, Assistant County Counsel (via fax to 248-3377)
(both with copies of Ms. Roberts' letter received March 27)

March 27, 1996

VIA FAX 823-4347

William W. Shatzer
Code Hearings Officer
City of Portland
1120 S.W. 5th, Rm. 1017
Portland, OR 97204

Dear Mr. Shatzer:

RE: APPEAL HEARING # 161035 - DIANNA ROBERTS

Subject hearing is scheduled for 1:30 p.m. Thursday, March 28, 1996. To avoid any potential problems, I, respectfully, request that any witnesses be excluded from the Hearings Room until they are called to testify. During Hearings, which I have attended in the past, there appeared to be instances of corroboration between witnesses.

Regards,

ROSEWOOD CARE, INC. (Est'd 1985)



Dianna J. Roberts
Owner/Manager

cc: Laurence Kressel, County Counsel FAX 248-3377

Copy made 3/29 from Robert's copy

March 26, 1996

FAX 823-4347

Mr. Wm. Shatzner
CODE HEARINGS OFFICER
City of Portland
1120 S.W. 5th, Rm. 1017
Portland, OR 97204

Dear Mr. Shatzner:

RE: Appeal of No. 161035 - Dianna Roberts


Please reference the attached letter to Katie Gaetjens. By way of this FAX and for the reasons stated in my letter to Katie Gaetjens, I am requesting a continuance of subject hearing scheduled for 1:30 p.m. on March 28, 1996.

I will await your decision, which you may FAX to me at 661-4763.

Thank you for your consideration.

Respectfully,

ROSEWOOD CARE, INC.



Dianna J. Roberts
Owner/Manager

RECEIVED

MAR 27 1996

HEARINGS OFFICE

March 26, 1996

19390 N.E. Multnomah Ct.
Portland, OR 97230
Ph: 666-9121
FAX 661-4763

Katie Gaetjens, Assist. County Counsel
Multnomah County Oregon
1120 S.W. 5th Ave., Suite 1530
P.O. Box 849
Portland, OR 97007-0849

Dear Katie:

RE: YOUR LETTER OF MARCH 21, 1996


I am in receipt of your letter of March 21, 1996 regarding my request for records from the Adult Care Home Program Office of Aging Services Division of Multnomah County and, specifically, Mary Fassell. I acknowledge receipt of the records you reference in your letter. However, my request was and still is for a copy of my file, which is free of confidential/sensitive information guaranteed by Jim McConnell's letter of October 17, 1995. A copy of this letter was provided to you and Mary Fassell.

The file, which I paid a substantial amount of money for, is worthless to me. Providing a copy of this confidential file to a Hearings Officer would be a violation of my Constitutional Rights.

I will, again, request a continuance from Mr. Shatzner via FAX this a.m. until you have an opportunity to review this matter.

Respectfully,

ROSEWOOD CARE, INC.


Dianna J. Roberts
Owner/Manager

Enc. (1)

cc: Laurence Kressel, County Counsel
William Shatzner, Hearings Code Officer

RECEIVED
MAR 27 1996
HEARINGS OFFICE



CITY OF
PORTLAND, OREGON
HEARINGS OFFICE

1120 S.W. 5th Avenue, Room 1017
Portland, Oregon 97204-1960
Land Use Hearings (503) 823-7719
Code/Towing Hearings (503) 823-7307
FAX (503) 823-4347
TDD (503) 823-6868

March 25, 1996

Ms. Dianna Roberts
19390 N.E. Multnomah Court
Portland, OR 97230

via fax to 661-4763

SUBJECT: Appeal of Dianna Roberts, No. 161035

Dear Ms. Roberts:

No further postponements will be granted.

You should be prepared to proceed on the scheduled date for hearing.

Very truly yours,

**WILLIAM W. SHATZER
CODE HEARINGS OFFICER**

WWS:db

cc: Mary Fassell, Multnomah County Adult Care Home Program
(via fax to 306-5722)
Katie Gaetjens, Assistant County Counsel (via fax to 248-3377)

March 20, 1996

FAX 823-4347

Darla Broberg, Hearings Clerk
City of Portland - Hearing Office
1120 S.W. 5th Ave., Rm. 1017
Portland, OR 97204

Dear Darla:

RE: APPEAL NO. 161035 - DIANNA ROBERTS

I am in receipt of your FAX of this date in response to my request for a 60-day continuance. Regarding your paragraph 3, *where you advise me that Mr. Shatzer ruled on a previous request made by me on March 14, 1996*, I question this ruling due to the fact that I was advised that request sent Certified Return Receipt Request was lost in the mail.

Please keep in mind that I do **not** have the necessary file from Mary Fassell to proceed with a hearing on March 28, 1996. As stated earlier, it is imperative that I be granted this continuance *under the circumstances*.

Please call me at 666-9121, if unable to send a FAX to 661-4763.

Respectfully,

ROSEWOOD CARE, INC.


Dianna J. Roberts
Owner/Manager

cc: Katie Gaetjens
Mary Fassell
Oregon State Bar

RECEIVED
MAR 21 1996
HEARINGS OFFICE

FAX COVER LETTER

DATE 3/20/96

TO: Barla Broberg FAX 823-4347
PHONE 823-7307

FROM: DIANNA ROBERTS - FAX 1503/661-4763 (On 8:00 a.m. to 5:00 p.m.)
PHONE 1503/666-9121

(IF YOU HAVE A PROBLEM SENDING
THE FAX OR ARE TRYING TO SEND ONE
AFTER 5:00 P.M., PLEASE CALL 666-9191
AS I OFTEN TURN IT OFF AT 5:00 P.M.)

PAGES 1 INCLUDING COVER LETTER

COMMENTS Barla, would you please FAX
me any thing to me from your
office in March, 1996. My
mail was stolen on one
occasions. I still don't know
what I didn't get that day.
Thanks!

Dianne Robert

RECEIVED

MAR 21 1996

HEARINGS OFFICE



CITY OF
PORTLAND, OREGON
HEARINGS OFFICE

1120 S.W. 5th Avenue, Room 1017
Portland, Oregon 97204-1960
Land Use Hearings (503) 823-7719
Code/Towing Hearings (503) 823-7307
FAX (503) 823-4347
TDD (503) 823-6868

March 20, 1996

Ms. Dianna Roberts
19390 N.E. Multnomah Court
Portland, OR 97230

via fax to 661-4763

SUBJECT: Appeal of Dianna Roberts, No. 161035

Dear Ms. Roberts:

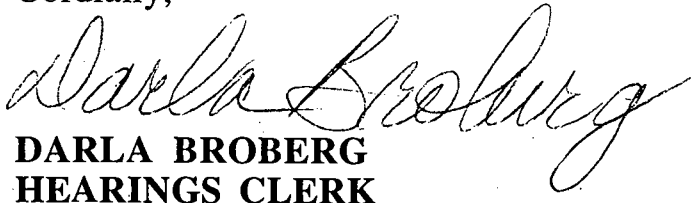
We received your letter today requesting a further 60-day postponement of your hearing, which is scheduled for March 28 and 29, 1996.

Mr. Shatzer is unavailable this week and so will not be able to rule on your request. I will bring your request to his attention as soon as he returns on Monday.

However, I must point out to you that he denied a similar motion which you made on March 14. At this point I can only advise you to be prepared to proceed with the hearing on March 28, as all indications are that Mr. Shatzer will, indeed, open the hearing at the time scheduled.

Also, as a reminder, Mr. Shatzer previously decided to hear the case on the revocation of your license first (our case #161035, the case which will be heard on March 28-29) and to hold the appeal of the suspension (our case #154001) in abeyance for the time being.

Cordially,


DARLA BROBERG
HEARINGS CLERK

cc: Mary Fassell, Multnomah County Adult Care Home Program
(via fax to 306-5722)
Katie Gaetjens, Assistant County Counsel (via fax to 248-3377)

March 20, 1996

FAX 823-4347
Ph. 823-7307
Certified Mail - RRR

City of Portland
Code Hearings Office
1120 S.W. 5th. Ave., Rm. 1017
Portland, OR 97204

APPEAL HEARING # 161035 & 154001 - DIANNA J. ROBERTS

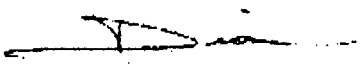
Dear Code Office:

Apparently the subject hearing is scheduled for March 28, 1996. Since my last request sent by Certified Return Receipt Request U.S. Mail, was lost, I am by way of this letter requesting a 60-day continuance. Please reference the attached letter addressed to Mary Fassell with a carbon copy to the Oregon State Bar. It is imperative that this request be granted.

Thanking in advance for your consideration.

Respectfully

ROSEWOOD CARE, INC.



Dianna J. Roberts
Owner/Manager

cc: Oregon State Bar
Katie Gaetjens, Multnomah County Counsel

March 20, 1996

Mary Fassell, Sanctions Specialists
Aging Services Division
Adult Care Home Program
Multnomah County Oregon
421 S.W. 5th, Rm. 405
Portland, OR 97204

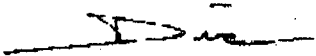
Dear Mary:

Pursuant to Jim McConnell's letter of October 17, 1995, please provide me a copy of my file, which assures compliance with laws of confidentiality.

Please reference my letter of January 9, 1996 confirming this same request by phone and followed with a letter. It will be impossible for me to participate in the scheduled March 28th hearing without having this file.

Regards,

ROSEWOOD CARE, INC.



Dianna J. Roberts
Owner/Manager

cc: Oregon State Bar, Chris Mullman
Carol Rcx, Deputy Director, Aging Services Division
Katie Gaetjens, Multnomah County Counsel

January 9, 1995

HAND DELIVERED

Jean DeMaster, Manager
Adult Care Home Program
Multnomah County Oregon
421 S.W. 5, Rm. 405
Portland, OR 97204

Certified -RRR - P 474 769 439

Dear Jean:

Re: Phone Conversation This Date

Thank you for returning my phone call. However, I was disappointed that you would have MARY FASSELL phone me within 5 minutes with a 'legal opinion'. It seems more appropriate that you would have consulted with the County Counsel, Katie Gaetjins as opposed to the "Sanctions Specialists", MARY FASSELL. To have expected to resolve anything over the phone, apparently, was my mistake. BECAUSE, we just get into a, "that's not what I said" situation.

I inquired about:

- 1) The fact that my name was not on the Adult Foster Care Home Registry for December, and, I presume January, although I have not seen it. Because it is not on the Registry, I did not receive notice of the meeting this evening. It is my position that until a FINAL ORDER has been issued, my name should remain on the Registry.
- 2) In your letters of August 18, September 15, October 13, November 9th, and Mary Fassell's letter of November 28, each states that, "This office's file on your Adult Care Home would automatically become part of the information available to the Hearing Officer." In light of this statement, my attorney requested a copy of 'my file'. In your letter of October 19 you advised me this copy would cost me \$93.50 and was available to be picked up, which I did. This afternoon MARY FASSELL just informed me this file was "confidential" and would not be made available to the Hearing Officer.

Jean, would you please reinstate my name on the Registry, AND provide me with a copy of 'the file' which actually will be made available. I would like to have a copy to take to my attorney. How can I be expected to retain an attorney without accurate information? This misstatement of fact, if it is a misstatement, has costs me undue expense with my

1. The Master



March 14, 1996

Ms. Dianna Roberts
19390 N.E. Multnomah Court
Portland, OR 97230

SUBJECT: Appeal of Dianna Roberts, No. 161035

Dear Ms. Roberts:

Your hearing was originally set over 60 days pursuant to your request of January 12, 1996. Further delays in this matter would not be warranted and would unduly delay resolution of this proceeding.

Both you and Multnomah County should be prepared to proceed in this matter on the scheduled hearing date of March 28, 1996.

Very truly yours,

William W. Shatzer
Code Hearings Officer

cc: Ms. Mary Fassell, Multnomah County Adult Care Home Program
cc: Ms Katie Gaetjens, Sr. Ass't County Counsel

#161035

March 8, 1996

City of Portland
Code Hearings Office
1120 S.W. 5th. Ave., Rm 1017
Portland, OR 97204

RE: APPEAL HEARING #154001
MARCH 14, 1996

REQUEST FOR CONTINUANCE

Pursuant to the above scheduled hearing, I hereby request a 60-day continuance due to the complexity of the issues and in lieu of the fact that Mary Fassell, Multnomah County Adult Care Home Representative, has not provided me with the necessary records as noted in my previous letter of January 12, 1996 to proceed with preparation for this appeal. (Please reference October 17, 1995 letter from Jim McConnell.)

Respectfully,

ROSEWOOD CARE, INC.



Dianna J. Roberts
Owner/Manager

RECEIVED
MAR 14 1996
HEARINGS OFFICE

Enclosure: (1)

cc: Katie Gaetjins, Sr. Asst. County Counsel, Multnomah County
Mary Fassell, Sanctions Specialists, Multnomah County - Aging Services Division



MULTNOMAH COUNTY OREGON

AGING SERVICES DIVISION
AREA AGENCY ON AGING
421 S.W. 5TH, 3RD FLOOR
PORTLAND, OREGON 97204
SENIOR HELPLINE: (503) 248-3646 ADMINISTRATION: 248-3620
TDD: 248-3683 FAX: 248-3656

#161035

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN • CHAIR OF THE BOARD
DAN SALTZMAN • DISTRICT 1 COMMISSIONER
GARY HANSEN • DISTRICT 2 COMMISSIONER
TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

October 17, 1995

Dianna J. Roberts, Owner
Rosewood Care Inc.
19390 NE Multnomah Ct.
Portland, OR 97230

Dear Ms. Roberts:

I am responding to your letter to me dated October 13, 1995. ASD staff will provide you with copies of the material in your file within a reasonable amount of time and after screening to assure compliance with laws on confidentiality. I understand that the attorneys are working on timelines.

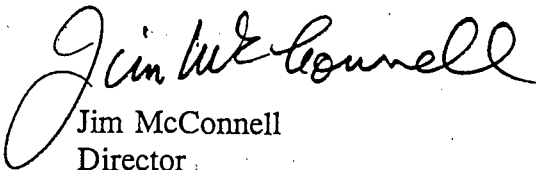
After our last conversation, I had arranged for you to get the copies you requested. I understand that Mr. Cottle chose to come to the office to get them.

Mary Fassell is a member of the staff at ASD, but is not a staff attorney.

ASD reserves the right to charge reasonable fees for large amounts of copying requested by the public.

The action to suspend admissions to your home was not taken lightly. The staff at the ACH program are very concerned about the welfare of residents in your home and have acted accordingly. I know that they take great care not to violate anyone's rights as they move to protect residents.

Sincerely,


Jim McConnell
Director

RECEIVED

MAR 14 1996

HEARINGS OFFICE

DIANNA ROBERTS
19390 NE MULTNOMAH CT
PORTLAND, OR 97230

CERTIFIED

P 474 616 169

MAIL



RECEIVED

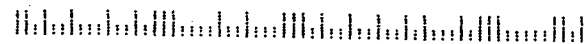
MAR 14 1996

HEARINGS OFFICE

City of Portland
Code Hearings Office
1120 S.W. 5th, Rm. 1017
Portland, OR 97204

RETURN RECEIPT REQUESTED

97204-1985 01





CITY OF
PORTLAND, OREGON
HEARINGS OFFICE

1120 S.W. 5th Avenue, Room 1017
Portland, Oregon 97204-1960
Land Use Hearings (503) 823-7719
Code/Towing Hearings (503) 823-7307
FAX (503) 823-4347
TDD (503) 823-6868

March 4, 1996

Ms. Dianna Roberts
19390 N.E. Multnomah Court
Portland, OR 97230

Ms. Katie Gaetjens
Senior Assistant County Counsel
1120 S.W. 5th Avenue, 15th floor
Portland, OR 97204

SUBJECT: Appeal of Dianna Roberts, No. 161035

Dear Ms. Roberts and Ms. Gaetjens:

The hearing in the above-referenced appeal is currently scheduled to begin at 1:30 p.m., Thursday, March 14, with continuation (if necessary) on March 15, 28, and 29, 1996. I erred in scheduling the March 15 date. Mr. Shatzer, who will be hearing this case, has for some time been scheduled for vacation between March 15 and March 22.

Since the 15th is not available, and only a half-day available on the 14th, Mr. Shatzer would prefer to begin the hearing on March 28, with continuation to March 29. Please adjust your calendar and your plans accordingly.

I apologize for any inconvenience this may cause. Please call me if you have any questions. I can be reached at 823-7307.

Cordially,

DARLA BROBERG
HEARINGS CLERK

cc: Ms. Mary Fassell, Mult. Co. Adult Care Home Program

CITY OF PORTLAND -- Code Hearings Office
1120 S.W. . . . Avenue, Room 1017, Portland, OR 204
(503) 823-7307 / FAX (503) 823-4347

NOTICE OF HEARING -- Appeal Hearing # 161035

Date Mailed: Fri, Feb 16, 1996

Multnomah County

vs.

Dianna Roberts
Respondent(s) / Appellant(s)

Type of violation or nature of determination: appeal - adult care home facility
Date of exclusion order or other determination: Tuesday, November 28, 1995
Complaint or appeal was filed in the Code
Hearings Office on: Wednesday, January 17, 1996
Bureau case # (if known):
City / County representative: Mary Fassell
Property:

You are notified that a hearing will be held in the above proceeding on:

Date: Thursday, March 14, 1996 Time: 1:30:00 PM
Place: Meeting Room A, second floor of the Portland Building,
1120 S.W. 5th Avenue, Portland, Oregon
Purpose: New case

REMINDER ONLY. Notice of this hearing was sent previously to the parties.

**ALL REQUESTS FOR POSTPONEMENTS AND CONTINUANCES MUST BE IN WRITING AND
FILED WITH THE CODE HEARINGS OFFICE AT THE ADDRESS AT THE TOP OF THIS
NOTICE.**

This notice has been mailed to the following parties :

Dianna Roberts 19390 N.E. Multnomah Court Portland OR 97230
Katie Gaetjens Sr. Asst. County Counsel
1120 S.W. 5th Avenue, 15th floor Portland OR 97204
Mary Fassell Mult. Co. Adult Care Home Program
421 S.W. 5th Avenue, #405 Portland OR 97204-2221
Code Hearings Office

**If you have any questions concerning this proceeding,
please call (503) 823-7307 for further information.**

If you need a sign language interpreter or an FM loop amplifier for this hearing, you may contact Darla Broberg or Ruth York at the Hearings Office, 823-7307, or the City Information TDD, 823-6868.

Please call during business hours AT LEAST TWO BUSINESS DAYS PRIOR to the hearing so arrangements can be made.

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Date: Friday, March 15, 1996 Time: 9:00:00 AM
Place: Meeting Room A, second floor of the Portland Building,
1120 S.W. 5th Avenue, Portland, Oregon
Purpose: Continuation from 3/14/96.

REMINDER ONLY. Notice of this hearing was sent previously to the parties.

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Multnomah County

vs.

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NOTICE OF HEARING -- Appeal Hearing # 161035

Date Mailed: Fri, Jan 19, 1996

Multnomah County

vs.

Dianna Roberts
Respondent(s) / Appellant(s)

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Multnomah County

vs.

Dianna Roberts
Respondent(s) / Appellant(s)

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Multnomah County

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Please call during business hours **AT LEAST TWO BUSINESS DAYS PRIOR** to the hearing so arrangements can be made.

RECEIVED

DEC 15 1995

December 15, 1995

Mary M. Fassell, Attorney
Multnomah County
Adult Care Home Program
421 S.W. 5th, Room 405
Portland, Oregon 97204-2221

Re: Hearings Request for Revocation of my Adult Care Home
License - Your Letter of November 28, 1995

Dear Mary:

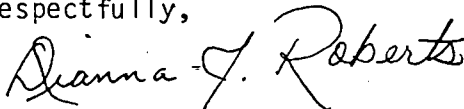
By way of this letter I formally make a request for a Hearing on the revocation of my Adult Care Home License outlined in your 14 page letter of November 28, 1995 and 66 pages of attachments.

The reasons for the hearing will be to refute the issues outlined in subject letter. Please reference the attached letters of request from my Attorney, Mr. James Niedermeyer:

- October 26, 1995 - Request for Conference re Suspension
of New Admissions - Letter 10/13/95
- October 26, 1995 - Request for Conference re Fine - Letter
10/20/95
- November 17, 1995 - Request for Conference re Additional
Suspension of New Admissions -
Letter 11/9/95

All three (3) letters were submitted within the required twenty (20) day time frame outlined in the MCAR's. None of these letters were acknowledged in writing as being received nor has a conference been granted within the ten (10) days of the request as required by MCAR 890-080-330.

Respectfully,



Dianna Roberts
Rosewood Adult Foster Care
19390 N.E. Multnomah Ct.
Portland, OR 97230

Mary M. Fassell
December 15, 1995
Page 2

RECEIVED
DEC 15 1995

Attachments (3)

cc: Catherine Gaetjens, Multnomah County Counsel
Carole Isaman, Licensing Agent
Annette Potts, Protective Services
Jean DeMaster, Manager Adult Care Home Program
Jim McConnell, Director - Aging Services Division
Multnomah County Commissioners
Grover Simmons, Lobbyists
Roger M. Auerbach, Administrator Senior & Disabled Services Div.
Senator John Lim

P.S. Mary, I feel your letter of Revocation is premature considering you only enclosed the findings of the six (6) complaints received FROM my ONE former resident with a mental disorder, or INVOLVED this ONE resident in some manner without allowing me the opportunity to refute these allegations in an Administrative Conference as required by MCAR 890-080-320, NOR were the complaints investigated in a timely manner as required by SB 549.

Further, you did not site any of my residents as being in "imminent danger." I anticipate ALL four (4) of my ladies will be exercising their Resident Hearing Rights against , "involuntary termination of residency -- transfer trauma," in MCAR 890-090-200 thru 280.

JAMES C. NIEDERMAYER
ATTORNEY AT LAW
2100 S.E. BELMONT STREET
PORTLAND, OREGON 97214

PHONE (503) 233-8550
FAX (503) 233-8560

P.O. BOX 4078
PORTLAND, OREGON 97208

October 26, 1995

HAND DELIVERY

RECEIVED

DEC 15 1995

Supervisor
Adult Care Home Program
Aging Services Division
Multnomah County
421 S.W. Fifth Ave., Room 405
Portland, OR 97204

Re: Dianna Roberts
Communication Dated 10/20/95 from Mary Fassell
Concerning Fine (Copy Enclosed)

Dear Supervisor:

In accordance with the authorization below, request
is made for a hearing in regard to the above matter.

Very truly yours,

James C. Niedermeyer

JCN:mc

Encl.

cc w/encl.: Catherine Gaetjens, County Counsel

IT IS SO AUTHORIZED.

Dianna Roberts

JAMES C. NIEDERMEYER
ATTORNEY AT LAW
2100 S.E. BELMONT STREET
PORTLAND, OREGON 97214

PHONE (503) 233-8550
FAX (503) 233-8560

P.O. BOX 4078
PORTLAND, OREGON 97208

November 17, 1995

HAND DELIVERY

DEC 15 1995

Supervisor
Adult Care Home Program
Aging Services Division
Multnomah County
421 S.W. Fifth Ave., Room 405
Portland, OR 97204

Re: Dianna Roberts
Communication Dated 11/09/95 from Jean DeMaster
(Copy Enclosed)

Dear Supervisor:

In accordance with the authorization below, request
is made for a conference as well as a hearing in regard
to the above matter.

Very truly yours,

James C. Niedermeyer

JCN:mc
Encl.

cc w/encl.: Catherine Gaetjens, County Counsel

APPROVED:

Dianna Roberts

JAMES C. NIEDERMEYER
ATTORNEY AT LAW
2100 S.E. BELMONT STREET
PORTLAND, OREGON 97214

PHONE (503) 233-8550
FAX (503) 233-8560

P.O. BOX 4078
PORTLAND, OREGON 97208

October 26, 1995

HAND DELIVERY

Supervisor
Adult Care Home Program
Aging Services Division
Multnomah County
421 S.W. Fifth Ave., Room 405
Portland, OR 97204

DEC 15 1995

Re: Dianna Roberts
Communication Dated 10/13/95 from Jean DeMaster
Concerning Suspension (Copy Enclosed)

Dear Supervisor:

In accordance with the authorization below, request
is made for a conference as well as a hearing in regard
to the above matter.

Very truly yours,

James C. Niedermeyer

JCN:mc

Encl.

cc w/encl.: Catherine Gaetjens, County Counsel

IT IS SO AUTHORIZED.

Dianna Roberts



MULTNOMAH COUNTY OREGON

AGING SERVICES DIVISION (503) 248-3646
ADULT CARE HOME PROGRAM (503) 248-3000
FAX: (503) 306-5722
421 SW 5TH, ROOM 405
PORTLAND, OR 97204-2221

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN • CHAIR OF THE BOARD
DAN SALTZMAN • DISTRICT 1 COMMISSIONER
GARY HANSEN • DISTRICT 2 COMMISSIONER
TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

CERTIFIED MAIL

November 28, 1995

Ms. Dianna Roberts
19390 N.E. Multnomah Court
Portland, Oregon 97230

Dear Ms. Roberts:

We have thoroughly reviewed the complaint investigation reports (enclosed) concerning your adult care home (ACH), our files, and your records. Based on the serious violations of the standards and rules of the Adult Care Home Program (ACHP) that this review disclosed, we are notifying you that your license to operate an ACH is being revoked.

The details of each violation, and the related rule citations, are set forth below. Violations were found in numerous areas. There were several instances where seriously ill residents did not receive the medical attention they needed. Medications containing controlled substances were missing from your ACH without documentation. Records we reviewed were in some cases incomplete and inadequate. We were unable to review other records that should have been retained in the home because you denied us timely access. Subsequently, the records to which we were denied access were allegedly disposed of by your housekeeper.

Numerous complaints from your caregivers, many of whom did not know one another, indicated that your conduct was verbally and mentally abusive to both residents and the caregivers themselves. This pattern was consistent with the inappropriate behavior observed by other community agencies and service providers in their dealings with you.

Complaints also indicated that you disregarded other basic rights of the residents in your home, rights guaranteed by both county administrative rules and state law. Examples include your refusal to permit a resident to select her own medical provider, and to receive phone calls in your ACH.

Finally, your relationships with ACHP staff, as well as with other community care providers, has been characterized as hostile,

defensive, and intimidating. Adult care home operators are required by rule to work cooperatively with ACHP staff. In addition, operators cannot effectively fulfill their obligations to their residents without maintaining professional relationships with the other individuals and community agencies involved in the residents' lives. While differences of opinion will arise between outside personnel and ACH operators from time to time, our investigations disclose that you have engaged in a continuing pattern of noncooperation, in violation of ACHP rules.

Consequently, your license to operate an adult care home is hereby revoked.

The specific rule violations supporting the revocation of your operator's license are set forth below:

1. NEGLECT

A. Resident 1 fell while using the commode some time between 9 p.m. on April 12, 1995 and 2:30 a.m. on April 13, 1995. See Complaint #A950725, Allegation #5 for a complete description of the circumstances of this fall. Resident 1 had a dramatic, negative change in condition after the fall, and did not receive medical care until some time between 13.5 and 19 hours after the fall. This is a violation of Multnomah County Administrative Rule (MCAR) 890-020-500(a), which requires an operator to get a prompt medical assessment and treatment as appropriate; and is neglect under MCAR 890-015-660.

B. Resident 2 fell in your home on June 7, 1995. See Complaint #A950725, Allegation #6 for a complete description of the circumstances of this fall. Resident 2 was extremely weak, having been hospitalized four times in the 18 days preceding the fall for illnesses including pneumonia, upper gastro-intestinal bleeding, and anemia. Despite your knowledge of Resident 2's weakened condition, your 10 years' experience as an ACH operator and caregiver, and your Certified Nurse's Aide (CNA) training, you left Resident 2 unattended in the bathroom while she was in a weakened condition and she fell. This failure to address Resident 2's basic needs constitutes neglect under MCAR 890-015-660.

C. Resident 2 fell again in your home some time after she returned from the hospital on June 12, 1995. See Complaint #A950725, Allegation 6 for a complete description of the circumstances of this fall. This fall was not recorded in your progress notes, nor did Resident 2 receive professional medical treatment, even though she had severe bruising. Again, despite your knowledge of Resident 2's weakened condition, your 10 years' experience as an ACH operator and caregiver, and your CNA training, you took no action to ensure that Resident 2 would not fall again and she did fall in your presence while in the bathroom. Your

failure to protect Resident 2 violates MCAR 890-020-415(d) and MCAR 890-020-500(a).

D. Resident 3 had serious heart problems, including congestive heart failure and a history of heart attacks, but you did not respond to her complaints of chest pains. See Complaint #A950725, Allegation #7 for a complete description of the circumstances. You were aware of Resident 3's heart problems, as evidenced by the notations you made on her Resident Care Plan.

On August 10, 1995, you indicated to an ACHP investigator that you did not attend to Resident 3's chest pains because Resident 3 was seen by a cardiologist in 1992, and at that time the cardiologist believed that the chest pains were probably non-cardiac. After this diagnosis, you did not respond to Resident 3's complaints because "we can't get alarmed because we're so accustomed to hearing [Resident 3 complain about chest pains]." Resident 3 has not been seen by a cardiologist since 1992. On October 17, 1995, you stated that Resident 3 complained all the time about chest pains, and that she had nitroglycerine (Nitrostat) for the chest pains that was not self-administering.

Your lack of attention to Resident 3's chest pains constitutes neglect under MCAR 890-020-660 because she has serious heart problems; you were aware of these problems; and she had a prescription for Nitrostat, to be administered as needed for chest pain, which you withheld and which you knew she could not administer to herself.

E. On July 20, 1995, Resident 3 fell in the bathroom of your home at midnight. See Complaint #A950811 for a complete description of the circumstances. Resident 3 was admitted to the hospital because she was in extreme pain and therefore unable to perform the usual activities of daily living. Medical personnel found this fall suspicious because in their experience, one does not see the injuries Resident 3 had resulting from a simple fall.

On July 26, 1995, you stated that Resident 3 always yelled for help at night when going to the bathroom, and that she had a bedside commode that she preferred not to use. Also on July 26, 1995, Resident 3 said that the fall occurred after she yelled for help, got no response from you, and went to the bathroom alone.

Resident 3's medical records and resident records show that she has had other documented falls in January 1995 (dizziness from medication), June 1992 (fell off the commode), and July 1991 (fell getting up from a chair). Because Resident 3 is paralyzed on her left side from a stroke, she needs a walker to ambulate and has difficulty balancing. Because Resident 3 has serious heart problems, she is in a generally weakened physical condition. Despite all of these things, you took no action to protect her from additional falls. In particular, you did not assist Resident 3 in the bathroom on the night of July 20, 1995 when she asked for help. Because of this, she fell. This constitutes neglect under MCAR 890-015-660.

F. Our records indicate that you have repeatedly refused to provide night care for your residents, yet you continue to permit residents who need night care to remain in your home. In 1993, a caregiver reported that you prohibited her from getting up with a resident at night, because it meant you also would have to get up at night with that resident on the caregiver's days off. This violates MCAR 890-020-840(e)(H) and 890-015-660(a).

2. MEDICATION VIOLATION

Resident 2's Tylenol #3 prescription for 20 pills was originally filled on her June 12, 1995 release from the hospital. Your records indicate nothing about the medication ever having been given to Resident 2. You said that Resident 2 took very few of the Tylenol #3 pills, and you flushed the rest down the toilet. There were no Tylenol #3 pills present in your ACH for Resident 2 on October 1, 1995.

However, on July 21, 1995, the Tylenol #3 prescription for 20 pills was refilled, according to Kaiser Permanente records. Your records do not indicate that this prescription had been refilled nearly one and a half months after Resident 2's hospitalization. The result is that nearly 40 Tylenol #3 pills, a controlled substance, are unaccounted for. Your mishandling of this narcotic medication violates MCAR 890-020-510(d).

3. RECORDKEEPING VIOLATIONS

A. On August 16, 1995, Resident 4 was treated in the emergency room at Woodland Park Hospital for lacerations to the fourth finger of her right hand. The injuries were caused when her wedding ring got caught in her walker. This incident was not recorded in your progress notes as of our September 5, 1995, visit to your home, and your failure to document this incident violates MCAR 890-020-450(c)(F).

B. On or about August 1, 1995, a new resident (Resident 6) moved into your home. During our September 5, 1995, visit to your home, we found that most resident records for Resident 6 were missing. This is a violation of MCAR 890-020-450.

C. Some time after Resident 2 was released from the hospital on June 12, 1995, and before July 17, 1995, she fell again in the bathroom of your home. See Complaint #A950725, Allegation #6 for a complete description. Your failure to document this fall violates MCAR 890-020-450(c)(F).

D. In January 1995, Resident 3 fell in your ACH. The fall apparently occurred because Resident 3 suffered dizziness from medication she was taking. You did not record this fall in

Resident 3's progress notes; instead, the fall was mentioned in the comments of the contract nurse who visited your home, as having occurred on some unknown date before the nurse's visit. Your failure to document this fall violates MCAR 890-020-450(c)(F).

E. As part of the ACHP's investigation into the six most recent complaints against your home, we requested to review your "old" resident records; that is, all of your records that were not in the "current" records binders in your home. The ACHP has the authority to access these records under MCAR 890-020-260(a) and 890-100-210. Our request was first made on September 5, 1995. After that date, you repeatedly refused to give us access to these records. Finally you agreed to give us access, and on October 17, 1995, three ACHP employees went to your home on a scheduled visit. On their arrival, you informed them that the records had disappeared from your home some time between October 16, 1995 and October 17, 1995 at 9:30 a.m. when the three employees arrived.

A few days later, you sent to the ACHP a handwritten note of your housekeeper which stated that she threw a bag full of your records in the garbage. She supposedly threw out this bag of records even though the records: were in your private quarters; had been under your desk for a month; and you previously informed the ACHP that the records were in a box that was so heavy that you could not lift it to transport it to the ACHP office.

The absence of these records from your home constitutes a violation of MCAR 890-020-450(f).

4. VIOLATIONS OF RESIDENTS' RIGHTS

Seven of your former caregivers and several residents in your home have filed complaints with the ACHP. All of the complaints included allegations of your mistreatment of residents and caregivers. Many of these caregivers knew nothing about the other caregivers or their complaints. Most of the allegations were unable to be substantiated because there were no witnesses to the allegations except the resident at issue in the allegation, and several caregivers indicated that your residents were afraid of you.

Your history of mistreating your residents constitutes an abuse of resident's rights, as well as abuse and neglect, and violates MCAR 890-020-415, 890-015-120, and 890-015-660. It also indicates poor judgment and poor character, and violates MCAR 890-020-220(b) and (c). Your mistreatment of your caregivers indicates poor judgment and poor character, and violates MCAR 890-020-220(b) and (c).

For example, recently there has been a series of violations of residents' rights involving Resident 3. Resident 3 lived in your home for several years, moved out for a few weeks this summer, moved back to your home for a short time, and then left your ACH permanently. Problems involving Resident 3 included:

A. On June 8, 1995, while Resident 3 lived in your ACH, an operator of another ACH tried to telephone Resident 3 several times. See Complaint #62634 for a complete description of the circumstances of this incident. Your hanging up on this operator restricted Resident 3's right to talk on the telephone, a violation of MCAR 890-020-415(h).

B. Resident 3 requested to be moved from your home, so her case manager moved her to another ACH. You repeatedly called this resident at her new home, upsetting her. Resident 3 indicated you were calling her insisting that she move back to your ACH. You complained about the move to the Aging Services Director and to the ombudsman. The ombudsman then visited Resident 3 to find out if the move was her wish. It was difficult for this elderly woman to readjust to new surroundings, and your insisting that she move back to your ACH and the general confusion over the issue greatly upset her. The Aging Services Director warned you to cease telephoning the resident at her new home and he indicated that he would file a protective service complaint against you if you persisted. You were further warned by the ACHP program manager about the same issue in an administrative conference. Your actions are a violation of Resident 3's right to be free from emotional abuse, under MCAR 890-020-410(f).

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Violation

C. A few weeks later, Resident 3 did move back to your home. She no longer wanted to be treated by Dr. Theresa Eubanks, her former doctor, and had scheduled an appointment with another doctor. On August 10, 1995, you told our investigator that you did not want to deal with a new doctor for Resident 3, and convinced Dr. Eubanks to take her back. Resident 3's daughter told the ACHP investigator that you called and informed her that the appointment with the new doctor was cancelled. Resident 3 wanted to be treated by a different doctor but you prevented her from doing so, and required her to be seen by the doctor you chose. Resident 3 was very upset when you refused to let her see the doctor of her own choosing. See Complaint #A950725, Allegation #4 for a complete description of the circumstances of this incident. This violates MCAR 890-020-415(d), which requires all operators to protect residents' rights, including the right to consent or refuse medical treatment. This is also a violation of a resident's right to be treated with respect and dignity, which includes being able to choose one's own doctor, under MCAR 890-020-415(a).

Exhibit
#3

D. Both Resident 3 and one of your former caregivers told ACHP staff that you told Resident 3 several times that you thought she was getting Alzheimer's Disease. On August 10, 1995, you told an ACHP investigator that you do not believe that Resident 3 has this disease. See Complaint #A950725, Allegation #1 for a complete description of this issue. Telling an elderly resident that she may have Alzheimer's Disease when you do not think she has it constitutes mental abuse and violates MCAR 890-020-415(f).

E. On August 13, 1995, you called 9-1-1 to have Resident 3 removed from your home. You told the emergency personnel who responded to the call that Resident 3 was violent, had hit you, and wanted to commit suicide. The emergency personnel found that Resident 3 was calm, mentally sound, and seemed to be oriented and "with it." Resident 3 told the emergency personnel that the two of you had an argument, you were restricting food to Resident 3 and another resident, and you were abusive toward her. The emergency personnel refused to remove Resident 3 from your home at your request because there was no medical reason for the 9-1-1 call; however, Resident 3 was removed from your home at her request. See Complaint #A950827 for a complete description of this incident. It appears you fraudulently made up the story that Resident 3 was combative, physically violent, and abusive, as a way to evict her without providing the required 30 days notice and without having an acceptable reason for her discharge. This violates MCAR 890-020-415(p), and 890-020-445(a) and (b).

Other documented examples of your abuses of residents' rights in the past are:

F. In March 1993, a former resident indicated she asked you for her robe and you said, "get it yourself." You threatened the same resident that if she woke up the caregiver at night, she would have to "get out," as you explained to an ACHP investigator that you did not provide night care. This resident had heart problems, had previously suffered a stroke, and took morphine for her chest pain.

G. In 1993, a resident reported that you took her into the bedroom and out of the presence of the other residents, and threatened to slap her if she ever turned up the heat again. You also refused to permit this resident to talk privately with an ACHP investigator about a complaint about your ACH: you entered the room even though the door was closed, and the resident refused to continue talking with the investigator after you entered the room.

H. In February 1994, a caregiver reported that you wanted to be in control all the time, and were unsympathetic and demanding. The caregiver indicated that residents would be having a good time and laughing and you would walk into the room and everyone would freeze up because they were afraid of you. The caregiver indicated the residents stayed because they thought they had no where else to go. The caregiver indicated that you were mean and petty in such small ways as: only allowing one can of tuna and three hard-boiled eggs for tuna sandwiches for six people; forbidding seconds on milk for one resident who asked for it; swearing at residents; refusing to give a resident Tylenol as often as the resident wanted it, even though the doctor had given orders for it that frequently; and not helping an elderly, partially paralyzed resident pull up the covers at night when she could not do so.

I. In February 1994, a different caregiver reported that the residents froze up whenever you came into the room where they were, and that you showed no compassion toward the residents.

5. REFUSING TO COOPERATE WITH THE ACHP AND OTHERS IN AUTHORITY

Throughout your history as an adult care home operator in Multnomah County, you have been uncooperative with ACHP staff and others in authority. This violates MCAR 890-020-260(a), which requires operators to cooperate with ACHP personnel and our designees in "[i]nspections, interviews, complaint investigation procedures, . . . and other necessary activities, [and to] allow full access of [ACHP personnel and our designees] to the Adult Care Home facility . . . residents . . . and [r]ecords." For example:

A. A letter to you from the ACHP, dated June 10, 1986, notes that ACHP employees had problems reaching you for two days "due to your answering machine being used, your not returning calls, and no answer at all times."

B. On June 26, 1987, you told complaint investigators it was "not convenient" for you to get your records for them to review. The investigators had to return later.

C. On May 15, 1993, you refused to come in to the ACHP office and talk with the program manager when he requested it. You said you were "too busy," and he could come to see you if he wanted. Your attitude was reported as very hostile.

D. On July 7, 1993, I telephoned you to schedule an administrative conference with the ACHP program manager. You refused to make an appointment unless you received a written request. I informed you that your refusal to cooperate violated ACHP rules and made you liable for a fine. You said, "Just try and fine me," and hung up.

E. On April 17, 1995, the Medicaid contract nurse for the residents in your home telephoned you in an attempt to set up an appointment to visit your ACH. You refused to allow her to come. *reasm
Brewer*

F. On May 15, 1995, you refused to permit an investigator interview a resident in private. You insisted the conversation had to be where you could hear it.

G. On September 5, 1995, ACHP investigators requested access to all your resident records. You refused to let your caregiver show the investigators these records.

H. The program manager called you on September 18, 20, and 22, 1995, leaving a message on your answering machine each time. You did not return any of these calls.

An ACHP staff member reached you on the phone on September 25, 1995, and asked to set up a time for the ACHP to go to your home to review and copy your records. You put the call on hold and never returned. You called the ACHP on September 26, 1995, but refused to set up a time for us to review and copy your records.

An ACHP staff member called you on September 27, 1995, and left a message on your answering machine. You did not return this call.

These calls were attempts by the ACHP to arrange a convenient time for us to review and copy your records. As documented above, your were very uncooperative and defiant toward the ACHP, beginning in September 1995 and continuing to the present.

6. HIGH TURNOVER IN CAREGIVERS

Since you first began operating your ACH in 1985, you have had a very high turnover in staff members. ACHP records show that you have had at least 31 caregivers since your home opened. The ACHP program manager had a conference with you in the summer of 1992 about your residents complaining about the high staff turnover in your ACH. You acknowledged that you had high turnover. Again, in the fall of 1993, the ACHP program manager had another administrative conference with you about the high turnover of caregivers in your ACH and the resulting hardship on your residents. At that conference, you promised to do better, but turnover has remained high. Our records include complaints from seven of your caregivers indicating that you are very difficult, demanding, and mean to them, making it impossible to work for you. This high turnover is upsetting to the residents and violates MCAR 890-015-660: failure to provide for resident's well-being. It also indicates poor judgment, a violation MCAR 890-020-220(b).

Conclusion
NO
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7. POOR JUDGMENT/BAD CHARACTER

The following are some incidents known to the ACHP indicating a lack of the necessary good judgment and character required of ACH operators under MCAR 890-020-220(b) and (c).

A. Dishonesty/Intimidation/Coercion/Harassment

i. On July 19, 1995, the ACHP manager warned you in writing that your actions as discussed in her letter indicated a lack of good character and good judgment as required by the rules. Basically she warned you about the requirement to deal honestly with the ACHP staff. She listed six instances when you twisted around words of others for your own advantage.

ii. You have continued to contact Tom Glenn, a former ombudsman with the Commission on Aging and now a staff member of the ACHP, by phone and registered mail numerous times in recent

months, in an attempt to get him to sign documents you had written. These documents were intended to indicate that Mr. Glenn endorses you and approves of the way you run your ACH. In particular, on October 16, 1995, you called Mr. Glenn at his home and asked him to sign a document that you had written. When Mr. Glenn refused to sign, and indicated he no longer was employed as an ombudsman, you told him he could predate the document. When he still refused to sign, you threatened to have your attorney subpoena him. Again, he refused to sign.

iii. In April 1995, you requested that the contract nurse assigned to your home be removed as your nurse because she visited your home too often (six times in nine months). Staff members of Aging Services met and determined that this nurse should remain as your contract nurse because she knew your residents, and there was no indication her visits exceeded your resident's needs. On April 17, 1995, this nurse attempted to set up an appointment but you refused to allow her to come to your home. Finally, on April 19, 1995, she called you again and you permitted her to come over that afternoon, but only after her supervisor had called you and informed you that the nurse was still monitoring your home.

iv. While the above-mentioned nurse was at your home, you asked her to sign a statement that you had written regarding issues that had been substantiated in a previous complaint. When she refused to sign the statement, you became upset and told her that you would call her supervisor and request a new nurse. She still refused to sign. Subsequently, you did request a new nurse, and you also filed a complaint with the Oregon Board of Nursing on May 5, 1995. In October 1995, the Board of Nursing completed investigating your complaint and found that there were no violations of the Board's standards for nursing conduct by your contract nurse; therefore, the investigation was closed.

v. On May 5, 1995, ACHP program manager Jean DeMaster received a letter that you sent regarding a February 1, 1994 complaint against your home. This complaint substantiated that you borrowed money from a resident. Included with the letter were notarized affidavits that you had written for your residents and some of their family members to sign. The affidavits were signed by Resident 1, Resident 2's son, Resident 3, Resident 4's son, and Resident 5. These affidavits stated either that you never borrowed any money from the named resident, or that the named resident never had any money in your home. Each affidavit indicated it was offered "at my own volition and not due to duress of any nature." With regard to the affidavits signed by your residents, although the affidavits state that the signer signed "not due to duress of any nature," the fact that these residents were all seriously ill, elderly and feeble, and were completely dependent on you for their daily care, suggests it is highly unlikely that they could have felt free to refuse to sign.

You did admit to two investigators that you borrowed money from one of your residents. Once you found out this was a documented, substantiated complaint against your home, you insisted the investigator re-investigate the issue and change the conclusion. When that did not work, you had your residents and their family members complete the notarized affidavits described above. You also had an individual with no direct knowledge of the incident sign a statement you had written, indicating that you had, in that person's opinion, not borrowed money from the resident. When this did not result in a change in the substantiated report, you insisted on two administrative conferences about the issue, both times insisting you had never admitted you borrowed a resident's money. Your response to this complaint was dishonest and placed unnecessary pressure on residents and others not involved in the incident.

vi. In 1993, a caregiver complained that you asked the caregiver to sign a letter you had written as though you were the caregiver, about a resident who had just moved from your home. The caregiver thought some of the things in the letter were untrue and refused to sign the letter until you insisted. The caregiver felt threatened that she would lose her job if she did not sign it.

vii. On August 11, 1995, you attempted to intimidate and coerce another adult care home operator when you presented the operator with a prepared written statement that you wanted this operator to sign. The operator hesitated to sign it, but you told her that you might be losing your ACH license and pressured her to sign. She signed an amended form of the statement. This operator sent to the ACHP, with her son's assistance, copies of the original and altered statement, and an explanation of the events that led her to sign the statement, indicating she would not have written the statement in the way it was written.

viii. After you evicted Resident 3 from your home in August 1995, you called the Gresham Fire Department numerous times, demanding to obtain a copy of a report that you believed the Fire Department would have written on this incident. When informed by Fire Department personnel that there was no report written because there had been no medical need for the call, you continued to insist that there was a report, and called the Fire Department several more times in an effort to obtain it.

ix. Also after evicting Resident 3 from your home, you made numerous call to the Gresham Police Department, demanding that they change their report of this incident. The supervisors of the Officer who filed the report told him not to change the report as he had completed it properly. A Police Department employee delivered to your home a computer printout regarding the 9-1-1 call, but still you called the Police Department demanding that the report be changed.

B. Tom Glenn, a former ombudsman with the Commission on Aging and now an ACHP employee, visited your ACH on May 17, 1995. After this visit, Mr. Glenn was told by two people that you called them in an attempt to solicit residents, and told them that Mr. Glenn recommended your home. One of the people to call Mr. Glenn was a facility administrator, and the other was a resident's guardian. As an Ombudsman, Mr. Glenn did not make recommendations with regard to foster home placement, and never told you that you could use his name in soliciting residents. Your actions were dishonest and constitute a violation of MCAR 890-020-220(b) and (c).

C. Your business cards and letterhead paper state that you are a CNA. In a July 1995 letter to your complaint file, which was copied to many Oregon government officials and The Oregonian, you used this letterhead paper. On August 17, 1995, the Oregon Board of Nursing informed the ACHP that your CNA license expired in 1992 and had not yet been renewed. Your fraudulent representations that you are a CNA when in fact your license had expired constitutes a violation of MCAR 890-020-220(b) and (c).

D. During our investigation of the recent complaints about your home, there were numerous instances where you lied to the investigators. This dishonesty represents a lack of the good character required of ACH operators. Examples are:

i. On August 10, 1995, when an ACHP investigator was investigating an allegation (Complaint #60386, Allegation #3) that you took Resident 3's electric mattress pad as punishment, you told the investigator that you had not taken the mattress pad off Resident 3's bed in the past three years. Yet later, you told the investigator that you washed the residents' bedding every week; and on October 17, 1995, you indicated that when you washed the mattress pads every other week.

NO
CONSENT

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PROVED

ii. On June 26, 1995, an ACHP investigator asked you about an allegation (Complaint #62634) that you refused to let Resident 3 receive phone calls from the operator of an ACH to which Resident 3 was planning to move, against your wishes. You indicated that you did not hang up, but that the calls were disconnected because: they came in on your cellular phone; you were in Salem at the time the calls came in; and they were disconnected because you were out-of-range. Later, you told an ACHP investigator that you have AT&T cellular service. AT&T includes Salem in the local cellular calling area for both analog and digital service; therefore, the calls could not have been disconnected for being out-of-range.

8. UNAPPROVED CAREGIVER

Velma Elizabeth Spruell worked in your ACH from approximately July 20, 1995 through August 20, 1995. This information appeared in a

sworn affidavit of Ms. Spruell, dated September 27, 1995, which you sent to the ACHP office in October 1995. Ms. Spruell's criminal record check form was faxed to Aging Services on Friday, August 11, 1995, and not received in this office until Monday, August 14, 1995. This violates MCAR 890-020-230(e), which requires that criminal record check forms for new caregivers be provided to the ACHP prior to or at the time of employment.

9. PRIOR SUBSTANTIATED COMPLAINTS

A. In Complaint #43867, dated July 25, 1994, it was substantiated that you borrowed money from a resident.

B. In Complaint #1668, dated April 15, 1993, it was substantiated that you told a resident that you did not provide night care, and that the resident would have to leave the home.

C. In Complaints #570 and #579, dated August 21, 1986, it was substantiated that you dumped a resident on the doorstep of her family without notice to the family that the resident was leaving your ACH, and without the 30 days notice required to remove a resident from an ACH.

D. Also in Complaints #570 and #579, it was substantiated that you did not follow the physician's orders for medication.

No
evid

This office has the authority to revoke licenses, based on Multnomah County Code (MCC) 8.90.080(A):

(2) Where there exists a threat to the life, health, safety, or welfare of any resident.

(3) When there is reliable evidence of abuse, neglect, or exploitation of any resident.

(4) When the owner or operator has failed to comply with the provisions of this chapter; with city and county codes and ordinances; with the rules and standards duly promulgated by the Director for an adult care home; or any other state or federal law or rule applicable or relevant to the health or safety of a resident.

See also Multnomah County Administrative Rules (MCAR) 890-080-100 through 890-080-120.

You may request an administrative conference with the program manager regarding the revocation of your license. To do so, contact me at 248-3000, extension 2624.

You have the right to request a hearing before an independent hearings officer to appeal the revocation of your license, under MCC 8.90.090 and MCAR 890-090-100 through 890-090-150. To request a hearing, send a written request which states the reasons for the hearing and the issues to be heard, to:

Adult Care Home Program
421 S.W. Fifth Avenue
Room 405
Portland, OR 97204

Your request for a hearing must be received by this office within twenty (20) days after the day you receive this letter. The information that this Department has about the adult care home you operate would automatically become part of the contested case record and available to the hearings officer. This revocation will become a final order twenty (20) days from the date you receive this letter unless you request a hearing within the above-specified time frame.

This Department is ready to assist you in the placement of your residents if and when the revocation of your license becomes final. You have a duty to effect such placement and cooperate with the Department in accordance with MCC 8.90.080(C).

Please call me if you have any questions.

Sincerely,

Mary M. Fassell

Mary M. Fassell, Sanctions Specialist
Multnomah County Adult Care Home Program

c: Catherine Gaetjens, Multnomah County Counsel
James Niedermeyer, Attorney at Law
Carole Isaman, Licensing Agent
Annette Potts, Protective Services

Enclosures: Complaint Reports



MULTNOMAH COUNTY OREGON

AGING SERVICES DIVISION (503) 248-3646
ADULT CARE HOME PROGRAM (503) 248-3000
FAX: (503) 306-5722
421 SW 5TH, ROOM 405
PORTLAND, OR 97204-2221

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN • CHAIR OF THE BOARD
DAN SALTZMAN • DISTRICT 1 COMMISSIONER
GARY HANSEN • DISTRICT 2 COMMISSIONER
TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

January 12, 1996

Mr. William W. Shatzer
Hearings Officer
Portland Building
1120 S.W. 5th, Room 1017
Portland, Oregon 97204
B106/1017

Dear Mr. Shatzer:

This office has received a request for a hearing from Ms. Diana Roberts. The Adult Care Home Program revoked Ms. Robert's adult care home license. She is appealing our decision. A copy of our letter suspending her license and her letter requesting a hearing are enclosed.

As is required by MCC 8.90.090, and as a designee of the Director, I am designating you as Hearings Officer in this matter and requesting you to set the time and place for the hearing.

A hearing with Diana Roberts regarding suspension of admissions to her adult care home is already scheduled with you. The case number is 154001.

Ms. Roberts verbally indicated to you that she wanted to set over the hearing on the revocation of her license for four months but the Adult Care Home Program would like this hearing in a timely manner. We have asked Ms. Roberts for her estimate of time needed for this hearing but have not heard from her. We estimate that to assure enough time the hearing should be scheduled for three days. We will not be available on the second Friday of the month.

Ms. Roberts is not represented by Mr. Niedermeyer any longer. To our knowledge she is not represented by any attorney. The County will be represented by Katie Gaetjens, Multnomah County Counsel.

Sincerely,

Mary M. Fassell

Mary M. Fassell, Sanctions Specialist
Multnomah County Adult Care Home Program

Enclosures

RECEIVED

JAN 17 1996

HEARINGS OFFICE

Defendant moves that subject appeal be remanded without prejudice.

DATED this 21 day of May, 1996.

Respectfully submitted,

By: Dianna J. Roberts
Dianna J. Roberts, Defendant
19390 N.E. Multnomah Ct.
Portland, OR 97230

PAGE 2. RECONSIDER MOTION TO REMAND

CERTIFICATE OF SERVICE

I hereby certify that I have made service of the foregoing Motion to Reconsider Remand Appeal #161035 to Katie Gaetjens, Counsel for Multnomah County by hand delivery on this 21 day of May, 1996, a certified true, exact and full copy thereof addressed to her at her regular office address to-wit:

Katie Gaetjens
Sr. Assist County Counsel
Multnomah County
1120 S.W. 5, Rm. 1530
Portland, OR 97204



Volina Kerr

NOT ONE OF THE FOLLOWING REQUEST WERE

HONORED OR ACKNOWLEDGED

To Multnomah County

Emily Simon 9/6/95	Request for Hearing & Conference
Mark Cottle 9/18/95	Request for Hearing
Mark Cottle 9/22/95	Request for Written Confirmation
Mark Cottle 10/20/95	Request for Hearing
James Niedermeyer 10/26/95	Request for Hearing
James Niedermeyer 10/26/95	Request for Conference
Mark Cottle 10/31/95	Request for Hearing
James Niedermeyer 11/17/95	Request for Hearing & Conference
Dianna Roberts 12/15/95	Request for Conference
Dianna Roberts 12/15/95	Request for Hearing
Dianna Roberts 3/1/95	Request for Conference
Dianna Roberts 3/1/95	Request for Hearing
Dianna Roberts 3/22/95	Request for Conference & Hearing

(13)

Transerv

(503) 01-0484

PACKAGE EXPRESS

 NON-NEGOTIABLE AIRBILL SHIPPER'S AGENT
 PICKUP TIME AND DATE

PDX 561970

CGR:

ACCT. NO.

 DRIVER D 31

DATE:

DECLARED VALUE

\$

NAME ()		TELEPHONE ()		NAME XXXX ()		TELEPHONE ()	
FROM: COMPANY NAME <u>ROSEWOOD FOSTER CARE</u>				TO (FROM): COMPANY NAME <u>MCC H. MARY CARE CELL</u>			
ADDRESS <u>19390 N. MULTNOMAH</u>				ADDRESS <u>421 TRANSERV CANNOT DELIVER TO P.O. BOX</u>			
STATE <u>OR</u>		ZIP		CITY <u>PORTLAND</u>		STATE <u>OR</u>	
REFERENCE				DEPT./ORDER NO.			

THIRD PARTY BILLING	NAME MUST BE CURRENT CUSTOMER	ADDRESS	CITY	STATE	ZIP
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NO. PCS.	DESCRIPTION	WEIGHT	RATE	AMOUNT	
AIR EXPRESS NEXT DAY A.M. (DELIVER WEEKDAY) <input type="checkbox"/> EXPRESS LETTER (UP TO 6 oz.) <input type="checkbox"/> INTERNATIONAL <input type="checkbox"/> EXPRESS ENVELOPE (UP TO 2 lbs.) <input type="checkbox"/> *NEXT DAY BY 9 <input type="checkbox"/> CUSTOMER PACKAGE (OVER 2 lbs.) <input type="checkbox"/> *SATURDAY SVC. <input type="checkbox"/> *SAME DAY <input type="checkbox"/> OVERNIGHT TUBE <input type="checkbox"/> *LATE PICKUP <input type="checkbox"/> *EXTRA CHARGE APPLIES		LOCAL DELIVERY SUPER RUSH <input type="checkbox"/> DIRECT <input type="checkbox"/> DEFERRED <input type="checkbox"/> ROUND TRIP <input type="checkbox"/> ROUTE <input type="checkbox"/>		SPECIAL INSTRUCTIONS DEL. DEADLINE _____	ADVANCED FEES WRONG ADDRESS WAITING TIME <u>15 min</u> OTHER ATTEMPT LATE PICKUP
RECEIVED BY X	TIME DATE	D/M #	RETURN TO	TIME DATE <u>25</u>	

SEE REVERSE SIDE FOR CONDITIONS OF CARRIAGE; LIMITATIONS OF LIABILITY.

December 15, 1995

Mary M. Fassell, Attorney
Multnomah County
Adult Care Home Program
421 S.W. 5th, Room 405
Portland, Oregon 97204-2221

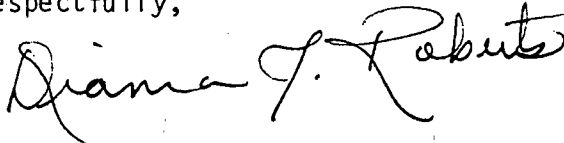
Re: Conference Request for Revocation of my Adult Care Home
License - Your Letter of November 28, 1995

Dear Mary:

By way of this letter I formally make a request for a Conference on the revocation of my Adult Care Home License per subject letter.

The reasons for the conference will be to refute the issues outlined in subject letter.

Respectfully,

A handwritten signature in cursive script that reads "Dianna J. Roberts". The signature is written in dark ink and is positioned above the typed name and address.

Dianna Roberts
Rosewood Adult Foster Care
19390 N.E. Multnomah Ct.
Portland, OR 97230

December 15, 1995

Mary M. Fassell, Attorney
Multnomah County
Adult Care Home Program
421 S.W. 5th, Room 405
Portland, Oregon 97204-2221

Re: Hearings Request for Revocation of my Adult Care Home
License - Your Letter of November 28, 1995

Dear Mary:

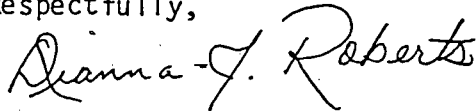
By way of this letter I formally make a request for a Hearing on the revocation of my Adult Care Home License outlined in your 14 page letter of November 28, 1995 and 66 pages of attachments.

The reasons for the hearing will be to refute the issues outlined in subject letter. Please reference the attached letters of request from my Attorney, Mr. James Niedermeyer:

October 26, 1995 - Request for Conference re Suspension
of New Admissions - Letter 10/13/95
October 26, 1995 - Request for Conference re Fine - Letter
10/20/95
November 17, 1995 - Request for Conference re Additional
Suspension of New Admissions -
Letter 11/9/95

All three (3) letters were submitted within the required twenty (20) day time frame outlined in the MCAR's. None of these letters were acknowledged in writing as being received nor has a conference been granted within the ten (10) days of the request as required by MCAR 890-080-330.

Respectfully,



Dianna Roberts
Rosewood Adult Foster Care
19390 N.E. Multnomah Ct.
Portland, OR 97230

Mary M. Fassell
December 15, 1995
Page 2

Attachments (3)

cc: Catherine Gaetjens, Multnomah County Counsel
Carole Isaman, Licensing Agent
Annette Potts, Protective Services
Jean DeMaster, Manager Adult Care Home Program
Jim McConnell, Director - Aging Services Division
Multnomah County Commissioners
Grover Simmons, Lobbyists
Roger M. Auerbach, Administrator Senior & Disabled Services Div.
Senator John Lim

P.S. Mary, I feel your letter of Revocation is premature considering you only enclosed the findings of the six (6) complaints received FROM my ONE former resident with a mental disorder, or INVOLVED this ONE resident in some manner without allowing me the opportunity to refute these allegations in an Administrative Conference as required by MCAR 890-080-320, NOR were the complaints investigated in a timely manner as required by SB 549.

Further, you did not site any of my residents as being in, "imminent danger." I anticipate ALL four (4) of my ladies will be exercising their Resident Hearing Rights against, "involuntary termination of residency -- transfer trauma," in MCAR 890-090-200 thru 280.

I feel that your personal aggressive attack on my home stems from our conflict in 1992 at which time you threatened to fine me \$1,000 for not being cooperative for which I received an apology. I do not feel it was inappropriate to ask for something in writing, nor did I in 1992. You were probably still in high school when I opened my home in 1985; but I have to agree, you've come a long way! Your power, however, may not have been appropriately delegated.

JAMES C. NIEDERMEYER
ATTORNEY AT LAW
2100 S.E. BELMONT STREET
PORTLAND, OREGON 97214

PHONE (503) 233-8550
FAX (503) 233-8560

P.O. BOX 4078
PORTLAND, OREGON 97208

October 26, 1995

HAND DELIVERY

Supervisor
Adult Care Home Program
Aging Services Division
Multnomah County
421 S.W. Fifth Ave., Room 405
Portland, OR 97204

Re: Dianna Roberts
Communication Dated 10/20/95 from Mary Fassell
Concerning Fine (Copy Enclosed)

Dear Supervisor:

In accordance with the authorization below, request
is made for a hearing in regard to the above matter.

Very truly yours,

James C. Niedermeyer

JCN:mc
Encl.

cc w/encl.: Catherine Gaetjens, County Counsel

IT IS SO AUTHORIZED.

Dianna Roberts

JAMES C. NIEDERMEYER

ATTORNEY AT LAW
2100 S.E. BELMONT STREET
PORTLAND, OREGON 97214

PHONE (503) 233-8550
FAX (503) 233-8560

P.O. BOX 4078
PORTLAND, OREGON 97208

November 17, 1995

HAND DELIVERY

Supervisor
Adult Care Home Program
Aging Services Division
Multnomah County
421 S.W. Fifth Ave., Room 405
Portland, OR 97204

Re: Dianna Roberts
Communication Dated 11/09/95 from Jean DeMaster
(Copy Enclosed)

Dear Supervisor:

In accordance with the authorization below, request
is made for a conference as well as a hearing in regard
to the above matter.

Very truly yours,

James C. Niedermeyer

JCN:mc
Encl.
cc w/encl.: Catherine Gaetjens, County Counsel

APPROVED:

Dianna Roberts

51

JAMES C. NIEDERMAYER

ATTORNEY AT LAW
2100 S.E. HELMONT STREET
PORTLAND, OREGON 97214

PHONE (503) 233-8550
FAX (503) 233-8560

P.O. BOX 4078
PORTLAND, OREGON 97208

October 26, 1995

HAND DELIVERY

Supervisor
Adult Care Home Program
Aging Services Division
Multnomah County
421 S.W. Fifth Ave., Room 405
Portland, OR 97204

Re: Dianna Roberts
Communication Dated 10/13/95 from Jean DeMaster
Concerning Suspension (Copy Enclosed)

Dear Supervisor:

In accordance with the authorization below, request
is made for a conference as well as a hearing in regard
to the above matter.

Very truly yours,

James C. Niedermeyer

JCN:mc

Encl.

cc w/encl.: Catherine Gaetjens, County Counsel

IT IS SO AUTHORIZED.

Dianna Roberts

March 1, 1996

Jean DeMaster, Manager
Adult Care Home Program
Multnomah County Oregon
421 S.W. 5th, Room 405
Portland, OR 97204


Dear Ms. DeMaster:

**RE: MARY FASSELL'S LETTER DATED 2-12-96 -SANCTIONS
SUSPENSION OF NEW ADMISSIONS TO MY HOME UNTIL FINAL ORDER**

In accordance with the MCAR'S and to protect my rights as outlined in subject regulations, I respectfully, request a **CONFERENCE** with you to refute allegations outlined in Mary's letter.

Regards,

ROSEWOOD CARE, INC.

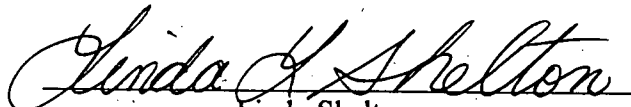


Dianna J. Roberts
Owner/Manager

CERTIFICATE OF SERVICE

I, hereby, certify that I have made service of the foregoing letter requesting a conference dated March 1, 1996 on Jean DeMaster, Manager Adult Care Home Program, Multnomah County Oregon by HAND DELIVERY on March 1, 1996, a certified true, exact and full copy thereof addressed to her at her regular office address to-wit:

Jean DeMaster, Manager
Adult Care Home Program
Multnomah County Oregon
421 S.W. 5th, Rm. 405
Portland, OR 97204


Linda Shelton

March 1, 1996

Jean DeMaster, Manager
Adult Care Home Program
Multnomah County Oregon
421 S.W. 5th, Room 405
Portland, OR 97204

Dear Ms. DeMaster:

**RE: MARY FASSELL'S LETTER DATED 2-12-96 -- SANCTIONS
SUSPENSIONS OF NEW ADMISSIONS TO MY HOME UNTIL FINAL ORDER**

In accordance with the MCAR's and to protect my rights as outlined in subject regulations, I respectfully, request a **HEARING** to refute the allegations outlined in Mary's letter.

Regards,

ROSEWOOD CARE, INC.

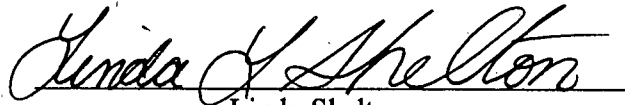


Dianna J. Roberts
Owner/Manager

CERTIFICATE OF SERVICE

I, hereby, certify that I have made service of the foregoing letter requesting a hearing dated March 1, 1996 on Jean DeMaster, Manager Adult Care Home Program, Multnomah County Oregon by HAND DELIVERY on March 1, 1996, a certified true, exact and full copy thereof addressed to her at her regular office address to-wit:

Jean DeMaster, Manager
Adult Care Home Program
Multnomah County Oregon
421 S.W. 5th, Rm. 405
Portland, OR 97204


Linda Shelton

CERTIFIED MAIL

March 22, 1996

Jean DeMaster, Manager
Adult Care Home Program
Aging Services Division
Multnomah County Oregon
421 S.W. 5, Rm. 405
Portland, OR 97204

Re: Complaint # Log A96-0112 - 1/30/96

Dear Ms. DeMaster:

Regarding subject complaint, I would like to request a **CONFERENCE AND HEARING**, as required in the MCAR's to contest these allegations and the investigator's findings.

Regards,

ROSEWOOD CARE, INC.



Dianna J. Roberts
Owner/Manager

EMILY SIMON

620 S.W. FIFTH SUITE 1204
PORTLAND, OREGON 97204
FAX 503 241-2587

ATTORNEY AT LAW
503 241-1553

GEORGE WILLIAMS
ATTORNEY AT LAW

September 6, 1995

BY HAND DELIVERY

Jean DeMaster
Adult Foster Care Home Program
421 SW Fifth Avenue
Room 405
Portland, Oregon 97204-2221

Re: Dianna Roberts and Rosewood Foster Care

Dear Ms. DeMaster:

Pursuant to the agency's administrative rules, we are requesting a formal hearing on the allegations raised in your August 18, 1995 letter to Ms. Roberts. We request a hearing to contest the allegations in the complaints referred to in the agency's August 18th letter.

We hereby waive the ten-day notice requirement under Multnomah County Licensing Ordinance 8.90.090(B).

We are requesting a formal hearing to preserve Ms. Roberts' due process rights; however, we believe this matter can be better resolved without a hearing and are therefore requesting a conference with you, as is also suggested in your August 18, 1995 letter. We have a proposal to present to the agency which we think will resolve this matter to the satisfaction of all concerned parties and would like to meet with you to discuss it as soon as possible. We are available to meet with you during the afternoon of September 8, all day on September 11, the afternoon of September 12, and anytime on September 13 through 15.

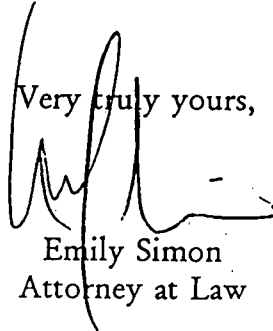
Also, I understand that county employees have gone to my client's home and are copying documents. Please be advised that this is unnecessary. If there are any additional documents that you would like to review, please let me know and we will gladly provide them.

(1) 12

page 2

Thank you for your kind attention and consideration in this matter. Please do not hesitate to call my office to schedule a meeting at your earliest convenience, or if you have any questions or concerns about this matter.

Very truly yours,

A handwritten signature in black ink, appearing to be 'Emily Simon', written over the typed name.

Emily Simon
Attorney at Law

ES:lbw

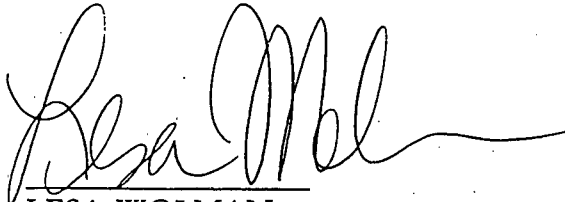
cc: client

demaster.ltr

CERTIFICATE OF SERVICE

I hereby certify that I have made service of the foregoing letter on Jean DeMaster of the Adult Foster Care Home Program by hand delivery on September 6, 1995, a certified true, exact and full copy thereof addressed to her at her regular office address to-wit:

Jean DeMaster
Adult Foster Care Home Program
421 SW Fifth Avenue
Room 405
Portland, Oregon 97204-2221


LESA WOLMAN

(3) 14

NEWTON, COTTLE & WESTENHAVER, P.C.

ATTORNEYS AT LAW
4000 KRUSE WAY PLACE, BLDG 1, SUITE 265
LAKE OSWEGO, OREGON 97035
(503) 697-7272

MARK O. COTTLE
GREGORY C. NEWTON*
DANA A. WESTENHAVER

FAX (503) 636-6995
*ALSO ADMITTED IN CALIFORNIA

September 18, 1995

VIA FACSIMILE 306-5722

Multnomah County
Aging Services/Adult Homes
Gene DeMaster
421 SW 5th Room 405
Portland, OR 97204-2221

RE: *Dianna Roberts @ 19390 N.E. Multnomah Ct.*

Dear Ms. DeMaster:

My above named client requests a hearing on the issues presented in your issuance of a temporary sanction, September 15, 1995 letter, against my client accepting new residents.

My client requests a complete copy of her file. Once it is ready, please contact me and will arrange for payment of the copy costs and have it picked up.

Very truly yours,

Mark O. Cottle

Jean, as of October 5, 1995, I have not received the complete file of Ms. Roberts. I have her public disclosure file, but I need the complete file. When will it be ready to be picked up?

(X) 15

NEWTON, COTTLE & WESTENHAVER, P.C.

ATTORNEYS AT LAW
4000 KRUSE WAY PLACE, BLDG 1, SUITE 265
LAKE OSWEGO, OREGON 97035
(503) 697-7272

MARK O. COTTLE
GREGORY C. NEWTON*
ANNA A. WESTENHAVER

FAX (503) 636-6995
*ALSO ADMITTED IN CALIFORNIA

September 22, 1995

Adult Foster Care Home Program/Multnomah County
Jean DeMaster
421 SW 5th, Room 405
Portland, OR 97204-2221

RE: *Dianna Roberts*

Dear Jean:

I have reviewed the complaints at issue with regards to the administrative sanctions. There are however, two issues that must be resolved prior to addressing the complaints.

1. Rule 890-080-400 Attorney Fees: It is my client's position that your agency is without authority to enforce this provision and said provision violates her Due Process rights as specified by the United States Constitution. I also find no statutory authority for this provision. Quite the opposite, ORS 183.497 allows for my client's attorney fees to be awarded but does not allow your agency's attorney fees to be awarded.

Prior to a hearing, it is demanded that your agency, in writing, state that Rule 890-080-400 is unenforceable. My client views your attempt to collect attorney fees as a means of thwarting ever Provider's Due Process.

Unless we receive written confirmation with regards to this issue within 7 days we will file for an injunction.

2. 890-080-120(k)(1) states "Has acquired substantial complaints pertaining to the health, safety, and welfare of residents." It is my client's position that this provision of the rules is unenforceable as it also violates Due Process.

If a complaint has been lodged against my client and your agency does an investigation and is unable to substantiate the complaint, it is without authority to impose any sanctions. The question then arises, how can you impose "Administrative Sanctions" based upon those prior complaints? Your agency is without authority to consider unsubstantiated complaints when it imposes any Administrative Sanctions. To allow your agency to consider unsubstantiated complaints when it imposes essentially temporary sanctions violates the very core of due process. Also, even if you do impose sanctions for past substantiated complaints, and then years down the road you receive new complaints, which have not been substantiated, and you impose temporary sanctions, you essentially are making a Provider pay twice for the same complaint, and imposing penalties upon a provider for unsubstantiated complaints. Your whole process violates my client's due process rights.

I will now briefly review the complaints. I was not provided a date on which the

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(5)

complaints were filed, so I will attempt to reference them for you.

A. This is a handwritten complaint, filed I believe on 9/12/95.

1. A/P threw food at A/V in W #1's AFH

Since we do not know who A/P is for sure, it is our belief that A/P is a resident with mental disabilities. She has been removed from the home, as you know, and therefore poses no threat to anyone in the home.

2. A/P hit AFH caregiver in the face and smacked her hard. Caregiver quit.

Again, it is our belief that A/P is a resident and as you know, the resident has been removed from the home.

B. This is a handwritten complaint.

1. The Complainant called and A/P hung up on Complainant and would not call A/V to the telephone.

This directly involve conduct by my client. The Complainant is another Provider who was unlawfully interfering in my client's business operation. Secondly, A/V has her own telephone and the Complainant has her number. It is the policy of this home that when a resident has h/her own phone, the resident's phone is to be used.

C. This is a handwritten complaint with 8 items.

1. My client nor her staff has ever commented the acts specified in number 1.

2. Both of the A/Vs have mental disabilities, it is not uncommon for either one of them to loose their wallet one day and find it the next.

3. This is true, as we understand the complaint. My client has a strict policy not to allow anyone to confront or argue with a resident.

4. This is not true. It is not the Provider that dictates the doctors of the Residents. It is the Guardian or Resident that makes this decision. The doctor that saw this A/V had been the Resident's doctor for years.

5. This is not true, A/V fell at about 3:00 a.m., my client helped her into bed after determining the resident was not in any pain. It was A/V's habit to sleep until 11:00 a.m. My client left at 9:00 a.m. leaving the residents in the care of a substitute caregiver (I believe the Complainant), when my client returned at approximately 4:00 p.m. she checked on A/V and called 911 as the resident was in pain. The patient went to the Hospital and then to a Nursing care facility where she died several months latter.

6. This is true. However, this resident, for the past 3 years, had been in the habit

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(6)

of going to the bathroom without assistance. She fell and was taken to the hospital. As you know, some resident unfortunately fall and bruise themselves.

7. The complainant is attempting to use one persons hypochondria to get even with a past employer. A/V ("Flo") has for the past 6 years complained about chest and side pains. She did it every night. Every doctor's visit she was checked for chest and side pains and nothing was ever found.

8. This is simply untrue.

D. This is a typed document with 7 issues.

This entire complaint relates, as far as we know, to "Flo". It has been documented that Flo has mental disabilities. This complaint was commenced by my client. She request the ombudsmen to visit Flo at her new home, however, it was requested that Tom Glenn not be used, which was agreed upon, and sadly that agency demonstrated its lack of integrity and sent Mr. Glenn who came back with 7 complaints after an interview with a mentally dysfunctional person.

1. This is not true
2. This is not true, yes my client bought sweat suits but returned the money and receipts.
3. This is not true, as far as my client knows, A/V did not have an electric blanket.
4. This is untrue.
5. This is untrue. Actually it is Flo that slaps caregivers and residents.
6. This is untrue.
7. The dog weighs over 20lbs and my client is unable to hold it. The cat is not allowed on the counter top.

E. This is a typed complaint with three issues. They involve Mt Hood Medical Center.

1. A/V falls a lot and my client desires praise for admitting her to the hospital when this happens.
2. The complaintant does not make sense. On the one hand, A/V is going to the hospital "numerous time" and the provider "continued to bring A/V there [hospital]," but the doctor does not know about the frequency of the occurrence. Which is it, we take the resident to the hospital to much or not enough?
3. This is silly. My client is not in control of where the ambulance takes a patient. Check with the EMS board of your county, there are strict rules on transportation. Secondly, it is my client's understanding the Mt. Hood Medical Center is an acceptable provider for this A/V's HMO.

F. I did not receive a copy of the last complaint for some reason, my client told me what it consists of and I believe part of a police report.

Again this involves Flo.

18 (7)

September 22, 1995

RE: *Dianna Roberts*

1. A/P was withholding food and not taking care of A/V. This is untrue.
2. My client called 911 because Flo was being abusive and combative. This is true.
3. My client refuses to accept Flo into her home. This is true. Flo is a potential danger to the rest of the residents.

Although I am not sure who each A/V and A/P are and it is very difficult to respond to allegation when you do not know who the victim or perpetrator are, if my client is correct, I am shock that your agency suspended her admissions based upon these complaints.

The vast majority of the complaints regard Flo a person suffering mental difficulties. Your agency is using a confused woman to violate the law. My client will not stand for it. Flo cannot remember individuals she is associated with on a regular basis, let alone be trusted to remember past events. She is abusive, combative and at best a very difficult individual. Should this proceed, I will of course be forced to take Flo's deposition, which would be a sad state of affairs for this situation. It is my understanding that Flo does not have the capability to even act as a witness as she is mentally incompetent.

Each of the complaints have sever credibility problems. As professionals, your agency should be able to determine the weight given to complaints when they come in and contradict themselves, are derived from past employees who incriminate themselves in the complaint or are derived from a woman who is mentally dysfunctional and make such wild accusations (41 decree homes-have your investigator check the thermostat, I think you will find that it does not go that low), that the credibility of the whole complaint is called into question. It seems that your agency is missing one very clear point in being a regulatory agency, you do have discretion to give weight to complaints, just like a police officer has discretion to give credit to complaints.

These complaints just do not add up. On the one hand there is complaints that my client does not call 911 enough and on the other to much. She is even being accused of freezing the residents. 27 of your people have been in my client's home, they know what the temperature is. Enough is enough.

I also understand that you are now requesting my client's last 7 years of records. By what authority is this request made and for what purpose? Your agency's conduct is bordering on harassment.

Please reconsider your sanctions, your agency's conduct violates the law and unless the sanctions are lifted my client will file for injunctive relief and pursuant to the law, my client entitled to attorney fees if she prevails.

Very truly yours,


Mark O. Cottle

NEWTON, COTTLE & WESTENHAVER, P.C.

ATTORNEYS AT LAW
4000 KRUSE WAY PLACE, BLDG 1, SUITE 265
LAKE OSWEGO, OREGON 97035
(503) 697-7272

MARK O. COTTLE
GREGORY C. NEWTON*
DANA A. WESTENHAVER

FAX (503) 636-6995
*ALSO ADMITTED IN CALIFORNIA

October 20, 1995

Multnomah County
Aging Services/Adult Homes
Gene DeMaster
421 SW 5th Room 405
Portland, OR 97204-2221

RE: *Dianna Roberts @ 19390 N.E. Multnomah Ct.*

Dear Ms. DeMaster:

My above named client requests a hearing on the issues presented in your issuance of your last temporary sanction against my client accepting new residents. My client also would like an informal conference in order to resolve the problems. Lets schedule that right away.

Thank you for your time.

Very truly yours,

Mark O. Cottle

20 / 101

JAMES C. NIEDERMEYER
ATTORNEY AT LAW
2100 S.E. BELMONT STREET
PORTLAND, OREGON 97214

PHONE (503) 233-8550
FAX (503) 233-8560

P.O. BOX 4078
PORTLAND, OREGON 97208

October 26, 1995

HAND DELIVERY

Supervisor
Adult Care Home Program
Aging Services Division
Multnomah County
421 S.W. Fifth Ave., Room 405
Portland, OR 97204

Re: Dianna Roberts
Communication Dated 10/20/95 from Mary Fassell
Concerning Fine (Copy Enclosed)

Dear Supervisor:

In accordance with the authorization below, request
is made for a hearing in regard to the above matter.

Very truly yours,

James C. Niedermeyer

JCN:mc

Encl.

cc w/encl.: Catherine Gaetjens, County Counsel

IT IS SO AUTHORIZED.

Dianna Roberts

21 (12)

JAMES C. NIEDERMAYER

ATTORNEY AT LAW
2100 S.E. BELMONT STREET
PORTLAND, OREGON 97214

PHONE (503) 233-8550
FAX (503) 233-8560

P.O. BOX 4078
PORTLAND, OREGON 97208

October 26, 1995

HAND DELIVERY

Supervisor
Adult Care Home Program
Aging Services Division
Multnomah County
421 S.W. Fifth Ave., Room 405
Portland, OR 97204

Re: Dianna Roberts
Communication Dated 10/13/95 from Jean DeMaster
Concerning Suspension (Copy Enclosed)

Dear Supervisor:

In accordance with the authorization below, request
is made for a conference as well as a hearing in regard
to the above matter.

Very truly yours,

James C. Niedermeyer

JCN:mc

Encl.

cc w/encl.: Catherine Gaetjens, County Counsel

IT IS SO AUTHORIZED.

Dianna Roberts

NEWTON, COTTLE & WESTENHAVER, P.C.

ATTORNEYS AT LAW

4000 KRUSE WAY PLACE, BLDG 1, SUITE 265

LAKE OSWEGO, OREGON 97035

(503) 697-7272

FAX (503) 636-6995

*ALSO ADMITTED IN CALIFORNIA

K O. COTTLE
JORY C. NEWTON*
A A. WESTENHAVER

October 31, 1995

Adult Care Home Program
Mary M. Fassell
421 SW Fifth St., Rm 405
Portland, OR 97204

RE: *Diana Roberts*

Dear Ms. Fassell:

My client, Ms. Roberts, requests a hearing on the fine you have imposed in your October 20, 1995 letter. The reasons for the hearing are the issues raised in your letter.

Specifically, Ms. Roberts had the records to be reviewed and her cleaning person, without authority took the records and discarded them. The records no longer exists. Therefore, she cannot produce something that she does not have.

Please call so we can discuss this matter. I do have a letter from the cleaning person to verify that she did dispose of the records and said letter is enclosed.

Very truly yours,


Mark O. Cottle

cc: Client

23 (9) A

JAMES C. NIEDERMEYER

ATTORNEY AT LAW
2100 S.E. BELMONT STREET
PORTLAND, OREGON 97214

PHONE (503) 233-8550
FAX (503) 233-8560

P.O. BOX 4078
PORTLAND, OREGON 97208

November 17, 1995

HAND DELIVERY

Supervisor
Adult Care Home Program
Aging Services Division
Multnomah County
421 S.W. Fifth Ave., Room 405
Portland, OR 97204

Re: Dianna Roberts
Communication Dated 11/09/95 from Jean DeMaster
(Copy Enclosed)

Dear Supervisor:

In accordance with the authorization below, request
is made for a conference as well as a hearing in regard
to the above matter.

Very truly yours,

James C. Niedermeyer

JCN:mc
Encl.
cc w/encl.: Catherine Gaetjens, County Counsel

APPROVED:

Dianna Roberts

24 (13)

CITY OF PORTLAND -- Code Hearings Office
1120 S.W. 1 Avenue, Room 1017, Portland, OR 97204
(503) 823-7307 / FAX (503) 823-4347

NOTICE OF HEARING -- Appeal Hearing # 161035

Date Mailed: Mon, May 20, 1996

Multnomah County

vs.

Dianna Roberts
Respondent(s) / Appellant(s)

Type of violation or nature of determination: appeal - adult care home facility
Date of exclusion order or other determination: Tuesday, November 28, 1995
Complaint or appeal was filed in the Code
Hearings Office on: Wednesday, January 17, 1996
Bureau case # (if known):
City / County representative: Mary Fassell
Property:

You are notified that a hearing will be held in the above proceeding on:

Date: **Tuesday, May 21, 1996** Time: **1:30:00 PM**
Place: **Meeting Room A, second floor of the Portland Building,
1120 S.W. 5th Avenue, Portland, Oregon**
Purpose: **Continued from 5/17/96.**

**ALL REQUESTS FOR POSTPONEMENTS AND CONTINUANCES MUST BE IN WRITING AND
FILED WITH THE CODE HEARINGS OFFICE AT THE ADDRESS AT THE TOP OF THIS
NOTICE.**

This notice has been mailed to the following parties :

Dianna Roberts 19390 N.E. Multnomah Court Portland OR 97230
Katie Gaetjens Sr. Asst. County Counsel
1120 S.W. 5th Avenue, 15th floor Portland OR 97204
Mary Fassell Mult. Co. Adult Care Home Program
421 S.W. 5th Avenue, #405 Portland OR 97204-2221
Code Hearings Office

**If you have any questions concerning this proceeding,
please call (503) 823-7307 for further information.**

If you need a sign language interpreter or an FM loop amplifier for this hearing, you may contact Darla Broberg or Ruth York at the Hearings Office, 823-7307, or the City Information TDD, 823-6868.

Please call during business hours AT LEAST TWO BUSINESS DAYS PRIOR to the hearing so arrangements can be made.

***** ERROR TX REPORT *****

TX FUNCTION WAS NOT COMPLETED

TX/RX NO. 1420
CONNECTION TEL 96614763
CONNECTION ID
START TIME 05/20 11:03
USAGE TIME 00'00
PAGES 0
RESULT NG 0 #018

Roberts

***** ERROR TX REPORT *****

TX FUNCTION WAS NOT COMPLETED

TX/RX NO. 1419
CONNECTION TEL 96614763
CONNECTION ID
START TIME 05/20 10:57
USAGE TIME 00'00
PAGES 0
RESULT NG
0 STOP

Robert

***** ERROR TX REPORT *****

TX FUNCTION WAS NOT COMPLETED

TX/RX NO. 1418
CONNECTION TEL 96614763
CONNECTION ID
START TIME 05/20 10:56
USAGE TIME 00'00
PAGES 0
RESULT NG
0 STOP

Robert

***** ERROR TX REPORT *****

TX FUNCTION WAS NOT COMPLETED

TX/RX NO.	1415
CONNECTION TEL	96614763
CONNECTION ID	
START TIME	05/20 09:27
USAGE TIME	00'00
PAGES	0
RESULT	NG
	0
	#018

Robert

***** ACTIVITY REPORT *****

TRANSMISSION OK

TX/RX NO. 1417
CONNECTION TEL 93065722
CONNECTION ID
START TIME 05/20 10:37
USAGE TIME 00'53
PAGES 1
RESULT OK

Faxell

***** ACTIVITY REPORT *****

TRANSMISSION OK

TX/RX NO.	1416
CONNECTION TEL	92483377
CONNECTION ID	
START TIME	05/20 09:37
USAGE TIME	01'08
PAGES	1
RESULT	OK

Butjens

FAX COVER LETTER

DATE 5/16/96

TO: Wm. W. Shatz FAX 823-4347
PHONE _____

FROM: DIANNA ROBERTS - FAX 1503/661-4763 (On 8:00 a.m. to 5:00 p.m.)
PHONE 1503/666-9121
(IF YOU HAVE A PROBLEM SENDING
THE FAX OR ARE TRYING TO SEND ONE
AFTER 5:00 P.M., PLEASE CALL 666-9191
AS I OFTEN TURN IT OFF AT 5:00 P.M.)

PAGES 7 ~~4~~ INCLUDING COVER LETTER

COMMENTS

Please note letter has

2 pg. addendum.

* Plus rescan of Med. Auth.



CITY OF
PORTLAND, OREGON
HEARINGS OFFICE

1120 S.W. 5th Avenue, Room 1017
Portland, Oregon 97204-1960
Land Use Hearings (503) 823-7719
Code/Towing Hearings (503) 823-7307
FAX (503) 823-4347
TDD (503) 823-6868

May 13, 1996

Ms. Dianna Roberts
19390 N.E. Multnomah Court
Portland, OR 97230

via fax to 661-4763
and copy mailed

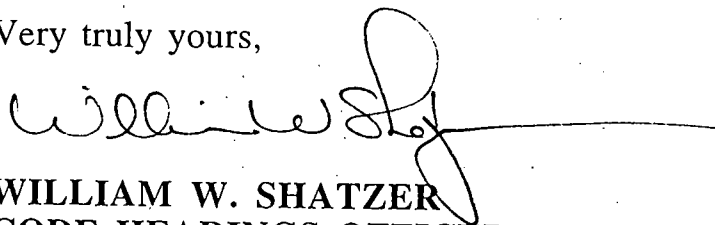
SUBJECT: Appeal of Dianna Roberts, No. 161035

Dear Ms. Roberts:

You should be prepared to proceed with the presentation of your witnesses when the hearing in this matter recommences at 9:00 a.m., Friday, May 17.

Your motion for further postponement is denied. Your request that I recuse myself in this proceeding is denied.

Very truly yours,



WILLIAM W. SHATZER
CODE HEARINGS OFFICER

WWS:ry

cc with enclosure:

Mary Fassell, Multnomah County Adult Care Home Program

(via fax to 306-5722) and copy mailed

Katie Gaetjens, Assistant County Counsel (via fax to 248-3377) and copy mailed

May 13, 1996

FAX 823-4347

Mr. Wm. W. Shatzer
CITY OF PORTLAND
CODE HEARINGS OFFICER
1120 S.W. 5th, Rm. 1017
Portland, OR 97204

RE: APPEAL HEARING #161035 - DIANNA ROBERTS vs MULTNOMAH COUNTY ACHP

Dear Mr. Shatzer:

With all due respect, Sir, I am in receipt of your:

- o Letter dated May 10, 1996 re rescission of release
- o Notice of Hearing - Appeal #161035 recommencing on May 17, 1996 - 9:00 a.m.

And, Ms. Katie Gaetjens:

- o Letter dated May 10, 1996 re rescission of release

It is evident that you are both attempting to override my Physician's instructions, "Not to participate in any Formal Hearings for 30 days," for the SECOND time! Since the May 9th hearing, I have been experiencing headaches, chest pains, and severe muscular shoulder neck and back pains; which have prevented me being able to sleep through the night, Mr. Shatzer.

I appeared at the May 9th hearing only because your clerk left message that you required either my presence, or my representative's presence. As you know, I have no legal representative; therefore, I felt compelled to '*appear*'. Your clerk informed me that you were going to be informing the parties how you planned to proceed. This is what I expected you would be doing. By no means did my '*appearance*' give you the authority to override my Physician's instructions for me, '*not to participate*'.

During that hearing, you asked me questions and entered an order for me to sign a document. This constituted, '*participation*'. Yes, I did rescind that signature, as it was given under duress. Signatures obtained under duress and coercion are invalid. As an attorney licensed by the Oregon State Bar, Mr. Shatzer, along with the two other attorneys present for Multnomah County, i.e., Ms. Katie Gaetjens and Ms. Mary Fassell were without doubt in violation of the Oregon State Board of Professional Conduct.

Wm. W. Shatzer

May 13, 1996

Page 2 of 5

Mr. Shatzer, I am very concerned that you may be involved in a conspiracy with Multnomah County's Aging Services Division. By way of this correspondence, I am requesting that you disqualify yourself from further involvement in my license revocation appeal hearing, and that the City of Portland - Code Hearings Office refrain from hearing any future license revocation appeal hearings. Why else would you:

- 1) Provide Ms. Gaetjens and Ms. Fassell, both Attorneys for Multnomah County, with an advance photocopy of my Physician's instructions, when the proper step would have been for you to respect those instructions and simply reschedule the Appeal Hearing for 30 days, unless you were following their instructions to force me to 'appeur' so that you could enter an order for me to sign a release of information they had prepared in advance of the hearing.

Since Ms. Fassell signed your contract to hear this appeal, it would not be unreasonable for her to expect you to follow her instructions. This contract created a blatant conflict of interest, since she also signed my Letter of Revocation, as well, as numerous other letters to me and my resident's family members slandering my integrity, and, in general, undermining my ability to financially continue operating my Adult Care Home of the past 12 years. These letters ordered my families to move their mothers out within 30 days. Over several months in late 1995 and early 1996, in other letters dated 30 days apart, she ordered me not to admit any new residents for 30 days. (Since I have only two (2) remaining Medicaid residents in my home, in a formerly prosperous business, Mary has nearly succeeded in bankrupting me, as has been her/the pattern within the Aging Services Division for a number of years.)


- 2) Strike my witness list, just because Ms. Gaetjens and Ms. Fassell complained that it contained 14 Multnomah County Aging Services Division staff members, unless you were protecting them. You told me at the beginning of my appeal hearing that, "at the conclusion of the County's case, I would allowed to present any testimony or witnesses I so desired." Without calling all my witnesses, I am unable to defend myself against the factitious and slanderous allegations brought against me, which remain in my Public File on display in the reception area of the Aging Services Division, and is relayed over the telephone to anyone inquiring about placing their relative in my Adult Care Home naturally making it impossible to continue operation -- my sole source of income for the past 12 years as a single middle aged woman.

Mr. Shatzer, I expect a Notice of Hearing rescheduled after 30 days as per my Physicians instructions; and an answer to this request that you disqualify yourself within 48 hours, since you haven't experienced any difficulty responding to Multnomah County's letters and motions within 24 hrs.

Wm. W. Shatzer
May 13, 1996
Page 3 of 5

Regards,

ROSEWOOD CARE, INC. (Est'd 1985)



Dianna J. Roberts
Owner/Manager

Attachments (4)

cc: Kaiser Permanente - Legal Department
Dori MacDonald, P.A. - Kaiser Permanente
Maurcen Jones, N.P. - Kaiser Permanente
Ted Kulongoski, Oregon Attorney General
Governor John Kitzhaber
Senator John Lim
Senator Ron Wyden
Barbara Clark, City of Portland Auditor
Gary Blackburn, Multnomah County Auditor
Gary Saltzman, Multnomah County Commissioner
Oregon State Bar
Multnomah County Bar Assoc.
American Bar Assoc.

Page 4 of 5

P.S. Addendum to May 13, 1996 letter to Wm. W. Shatzer re Appeal Hearing #161035

Why else, Sir, wouldn't you want to take the time to **'hear'** my witnesses, and are under 'contract' to do; **UNLESS**, of course, your decisions are predetermined as they would be in a conspiracy. After all, isn't that what you signed on to do June 22, 1995, a contract for your services at a rate of \$75.00 per hour, signed by yourself, Vera Katz, Mayor; Beverly Stein, County Executive; Barbara Clark, City Auditor, **along with** **coincidentally, my Prosecuting Attorney Katie Gaetjens, Sr. Assistant County Counsel and Frank Hudson, Deputy City Attorney.**

Further, how convenient that this contract, just coincidentally, contains an Indemnification clause for any actions against you; and, also, conveniently allows for legal fees to be **paid by the County** to defend any claims, suits, etc. which may be brought against you. What a nice package -- how could you go wrong?

A Hearing is what I requested, and I was sent a letter of: Notice of Hearing.

My dictionary definition of Hearing is:

An opportunity to be heard. A preliminary examination of an accused person. The trial of an equity case. A session, as of an investigatory committee, at which testimony is taken from witnesses.

I have asked to be provided a copy of the rules governing your 'hearings', and were told you were not required to provide that to me.

I have, also, been told in your hearing that the United States Constitution did not apply in 'your' hearing room. How did you come to this determination -- a 40 X 40 space exempt from honoring the Constitution!

So much for the Article V. Due process of law, etc, etc.

Article VI. To be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor;
AND, to have the assistance of Counsel for his defense

Article VIII: Excessive fines

Article I: Freedom of Press (Denied on 1st day of my hearing.)

Page 5 of 5

Continuing Page 2 of Addendum to Wm. W. Shatzer - May 13, 1996 re Appeal Hearing #161035

Now it is clear to me why no one, i.e., Mary Fassell (Attorney & Sanctions Specialists) Jean DeMaster (Manager of Adult Care Home Program), or even Jim McConnell (the Director of Aging Services Division) bothered to extend the common courtesy of returning neither my, or my attorney's, phone calls nor responded to my, or my attorney's, correspondence throughout much of 1995 and continuing. They knew all they had to do was revoke my license, and you would back them up giving the appearance of due process. This is a prime example of a conspiracy - A FEDERAL OFFENSE.

CONSENT FOR RELEASE OF INFORMATION

I, DIANNA ROBERTS, hereby consent to communication between the Multnomah County Department of Aging Services Adult Care Home Program and

MAUREEN JONES
DORI MAC DONALD P.A.

The purpose of this disclosure is to discuss my current medical condition, my ability to participate in a contested case hearing and my ability to function as an adult care home operator.

I understand that this information is being obtained only for the purposes described above and will not be redisclosed for any other purpose.

DATED this 9 day of May, 1996. 1:30 P.M.

OCY

Authorization Signature

F:\DATA\COUNSEL\WPDATA\EIGHTEEN\MED\CONSN.MIS

Kaiser Record Number

8

4106-1754

I Rescind the Above Authorization because I was ordered to sign under duress, without legal counsel, by: Mult. Counl Attorney, MARY FASSELL, KATIE GAETJINS, & WILLIAM SHATZER.
Dianna J. Roberts 5/9/96 3:4

***** ACTIVITY REPORT *****

TRANSMISSION OK

TX/RX NO.	1402
CONNECTION TEL	96614763
CONNECTION ID	
START TIME	05/13 16:27
USAGE TIME	00'55
PAGES	1
RESULT	OK

Roberts

***** ACTIVITY REPORT *****

TRANSMISSION OK

Fassell

TX/RX NO.	1400
CONNECTION TEL	93065722
CONNECTION ID	
START TIME	05/13 16:10
USAGE TIME	02'43
PAGES	4
RESULT	OK

***** ACTIVITY REPORT *****

TRANSMISSION OK

TX/RX NO.	1401
CONNECTION TEL	92483377
CONNECTION ID	
START TIME	05/13 16:17
USAGE TIME	03'00
PAGES	4
RESULT	OK

Caetjens

May 13, 1996

FAX 823-4347

RECEIVED

MAY 13 1996

HEARINGS OFFICE

Mr. Wm. W. Shatzer
CITY OF PORTLAND
CODE HEARINGS OFFICER
1120 S.W. 5th, Rm. 1017
Portland, OR 97204

RE: APPEAL HEARING #161035 - DIANNA ROBERTS vs MULTNOMAH COUNTY ACHP

Dear Mr. Shatzer:

With all due respect, Sir, I am in receipt of your:

- Letter dated May 10, 1996 re rescission of release
- Notice of Hearing - Appeal #161035 recommencing on May 17, 1996 - 9:00 a.m.

And, Ms. Katie Gaetjens:

- Letter dated May 10, 1996 re rescission of release

It is evident that you are both attempting to override my Physician's instructions, **"Not to participate in any Formal Hearings for 30 days,"** for the **SECOND** time! Since the May 9th hearing, I have been experiencing headaches, chest pains, and severe muscular shoulder neck and back pains, which have prevented me being able to sleep through the night, Mr. Shatzer.

I appeared at the May 9th hearing only because your clerk left message that you required either my presence, or my representative's presence. As you know, I have no legal representative; therefore, I felt compelled to **'appear'**. Your clerk informed me that you were going to be informing the parties how you planned to proceed. This is what I expected you would be doing. By no means did my **'appearance'** give you the authority to override my Physician's instructions for me, **'not to participate'**.

During that hearing, you asked me questions and entered an order for me to sign a document. This constituted, **'participation'**. Yes, I did rescind that signature, as it was given under duress. Signatures obtained under duress and coercion are invalid. As an attorney licensed by the Oregon State Bar, Mr. Shatzer, along with the two other attorneys present for Multnomah County, i.e., Ms. Katie Gaetjens and Ms. Mary Fassell were without doubt in violation of the Oregon State Board of Professional Conduct.

Wm. W. Shatzer
 May 13, 1996
 Page 2 of 3

Mr. Shatzer, I am very concerned that you may be involved in a conspiracy with Multnomah County's Aging Services Division. By way of this correspondence, I am requesting that you disqualify yourself from further involvement in my license revocation appeal hearing, and that the City of Portland - Code Hearings Office refrain from hearing any future license revocation appeal hearings. Why else would you:

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Since Ms. Fassell signed your contract to hear this appeal, it would not be unreasonable for her to expect you to follow her instructions. This contract created a blatant conflict of interest, since she also signed my Letter of Revocation, as well, as numerous other letters to me and my resident's family members slandering my integrity; and, in general, undermining my ability to financially continue operating my Adult Care Home of the past 12 years. These letters ordered my families to move their mothers out within 30 days. Over several months in late 1995 and early 1996, in other letters dated 30 days apart, she ordered me not to admit any new residents for 30 days. (Since I have only two (2) remaining Medicaid residents in my home, in a formerly prosperous business, Mary has nearly succeeded in bankrupting me, as has been her/the pattern within the Aging Services Division for a number of years.)

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Mr. Shatzer, I expect a Notice of Hearing rescheduled after 30 days as per my Physicians instructions; and an answer to this request that you disqualify yourself within 48 hours, since you haven't experienced any difficulty responding to Multnomah County's letters and motions within 24 hrs.

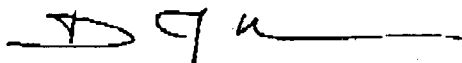
Wm. W. Shatzer

May 13, 1996

Page 3 of 3

Regards,

ROSEWOOD CARE, INC. (Est'd 1985)



Dianna J. Roberts

Owner/Manager

Attachments (4)

cc: Kaiser Permanente - Legal Department
Dori MacDonald, P.A. - Kaiser Permanente
Maureen Jones, N.P. - Kaiser Permanente
Ted Kulongoski, Oregon Attorney General
Governor John Kitzhaber
Senator John Lim
Senator Ron Wyden
Barbara Clark, City of Portland Auditor
Gary Blackburn, Multnomah County Auditor
Gary Saltzman, Multnomah County Commissioner
Oregon State Bar
Multnomah County Bar Assc.
American Bar Assc.



MULTNOMAH COUNTY OREGON

OFFICE OF COUNTY COUNSEL
1120 S.W. FIFTH AVENUE, SUITE 1530
P.O. BOX 849
PORTLAND, OREGON 97207-0849
(503) 248-3138
FAX 248-3377

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN, CHAIR
DAN SALTZMAN
GARY HANSEN
TANYA COLLIER
SHARRON KELLEY

May 10, 1996

William Shatzer
Hearings Office
City of Portland
1120 S.W. 5th Avenue, Room 1017
Portland, OR 97204-1960

COUNTY COUNSEL
LAURENCE KRESSEL
CHIEF ASSISTANT
SANDRA N. DUFFY
ASSISTANTS
J. MICHAEL DOYLE
KATIE GAETJENS
GERALD H. ITKIN
STEVEN J. NEMIROW
HELLE RODE
MATTHEW O. RYAN
JOHN S. THOMAS
JACQUELINE A. WEBER

RE: Dianna Roberts revocation hearing

Dear Mr. Shatzer:

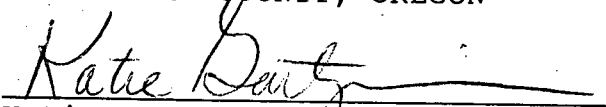
Pursuant to your order yesterday, Ms. Roberts signed a consent for release of medical information so that the Adult Care Home Program could speak with her medical care provider. At approximately 3 p.m. yesterday, when I reached Dori MacDonald, P.A., at Kaiser Permanente, Ms. McDonald informed me that Ms. Roberts had rescinded her consent for the release of medical information.

Consequently, we ask that you direct Ms. Roberts to be prepared to present her case at the scheduled time next week so that this matter can be concluded. If she is unable to appear in person, we ask that you direct her to appear either through counsel or through written testimony.

Very truly yours,

LAURENCE KRESSEL, COUNTY COUNSEL
FOR MULTNOMAH COUNTY, OREGON

By


Katie Gaetjens
Assistant County Counsel
Of Attorneys for the Department of Aging
Services

cc: Dianna Roberts (Fax No. 661-4763)
Mary Fassell (Fax No. 306-5722)

F:\DATA\COUNSEL\WPDATA\EIGHTEEN\RBTRRESCL.LET

RECEIVED

MAY 13 1996

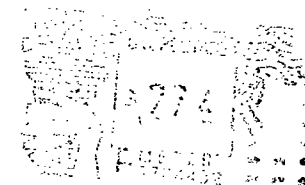
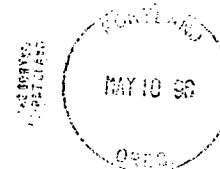
HEARINGS OFFICE



M 560

MULTNOMAH COUNTY OREGON

OFFICE OF COUNTY COUNSEL
1120 S.W. FIFTH AVENUE, SUITE 1530
P.O. BOX 849
PORTLAND, OREGON 97207-0849



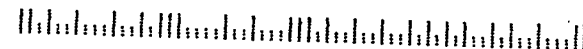
Mr. William Shatzer
Hearings Office
City of Portland
1120 S.W. Fifth Avenue, Room 1017
Portland, Oregon 97204-1960

RECEIVED

MAY 13 1996

HEARINGS OFFICE

97204-1960 01





CITY OF
PORTLAND, OREGON
HEARINGS OFFICE

1120 S.W. 5th Avenue, Room 1017
Portland, Oregon 97204-1960
Land Use Hearings (503) 823-7719
Code/Towing Hearings (503) 823-7307
FAX (503) 823-4347
TDD (503) 823-6868

May 10, 1996

Ms. Katie Gaetjens
Assistant County Counsel
P.O. Box 849
Portland, OR 97207-0849

Ms. Dianna Roberts
19390 N.E. Multnomah Court
Portland, OR 97230

SUBJECT: Appeal of Dianna Roberts, No. 161035

Ladies:

If the information furnished to me in Ms. Gaetjens' letter of May 10, 1996, is, indeed, correct, then it would be my intention to require Ms. Roberts to proceed with the presentation of her case when this proceeding is recommenced at 9:00 a.m., Friday, May 10, 1996.

Further continuances in this matter were conditioned on Ms. Roberts' cooperation in making an accurate assessment of whether such continuances were medically warranted. If Ms. Roberts has failed to so cooperate by revoking her medical information release authorization, then there would be no legitimate basis for further continuances, and Ms. Roberts should be prepared to proceed with her presentation on Friday morning.

Very truly yours,

A handwritten signature in dark ink, appearing to read "William W. Shatzer", is written over a horizontal line.

WILLIAM W. SHATZER
CODE HEARINGS OFFICER

WWS:db

cc: Ms. Mary Fassell (with copy of Ms. Gaetjens' letter)

**MULTNOMAH COUNTY OREGON**

OFFICE OF COUNTY COUNSEL
1120 S.W. FIFTH AVENUE, SUITE 1530
P.O. BOX 849
PORTLAND, OREGON 97207-0849
(503) 248-3138
FAX 248-3377

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN, CHAIR
DAN SALTZMAN
GARY HANSEN
TANYA COLLIER
SHARRON KELLEY

May 10, 1996

William Shatzner
Hearings Office
City of Portland
1120 S.W. 5th Avenue, Room 1017
Portland, OR 97204-1960

COUNTY COUNSEL
LAURENCE KRESSEL
CHIEF ASSISTANT
SANDRA N. DUFFY
ASSISTANTS
J. MICHAEL DOYLE
KATIE GAETJENS
GERALD H. ITKIN
STEVEN J. NEMIROW
HELLE RODE
MATTHEW O. RYAN
JOHN S. THOMAS
JACQUELINE A. WEBER

RE: Dianna Roberts revocation hearing

Dear Mr. Shatzner:

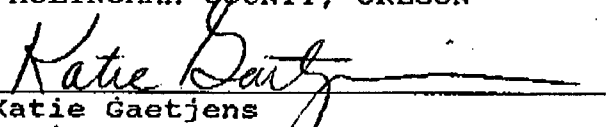
Pursuant to your order yesterday, Ms. Roberts signed a consent for release of medical information so that the Adult Care Home Program could speak with her medical care provider. At approximately 3 p.m. yesterday, when I reached Dori MacDonald, P.A., at Kaiser Permanente, Ms. McDonald informed me that Ms. Roberts had rescinded her consent for the release of medical information.

Consequently, we ask that you direct Ms. Roberts to be prepared to present her case at the scheduled time next week so that this matter can be concluded. If she is unable to appear in person, we ask that you direct her to appear either through counsel or through written testimony.

Very truly yours,

LAURENCE KRESSEL, COUNTY COUNSEL
FOR MULTNOMAH COUNTY, OREGON

By


Katie Gaetjens
Assistant County Counsel
Of Attorneys for the Department of Aging
Services

cc: Dianna Roberts (Fax No. 661-4763)
Mary Fassell (Fax No. 306-5722)

\\DATA\COUNTSEL\WP\DATA\WRIGHT\NR\ISTR\JSCI.LET

AN EQUAL OPPORTUNITY EMPLOYER

CITY OF PORTLAND -- Code Hearings Office
1120 S.W. 5th Avenue, Room 1017, Portland, OR 97204
(503) 823-7307 / FAX (503) 823-4347

NOTICE OF HEARING -- Appeal Hearing # 161035

Date Mailed: Fri, May 10, 1996

Multnomah County

vs.

Dianna Roberts
Respondent(s) / Appellant(s)

Type of violation or nature of determination: appeal - adult care home facility
Date of exclusion order or other determination: Tuesday, November 28, 1995
Complaint or appeal was filed in the Code
Hearings Office on: Wednesday, January 17, 1996
Bureau case # (if known):
City / County representative: Mary Fassell
Property:

You are notified that a hearing will be held in the above proceeding on:

Date: **Friday, May 17, 1996** Time: **9:00:00 AM**
Place: **Meeting Room A, second floor of the Portland Building,**
1120 S.W. 5th Avenue, Portland, Oregon
Purpose: **Continued from 5/9/96.**

**ALL REQUESTS FOR POSTPONEMENTS AND CONTINUANCES MUST BE IN WRITING AND
FILED WITH THE CODE HEARINGS OFFICE AT THE ADDRESS AT THE TOP OF THIS
NOTICE.**

This notice has been mailed to the following parties :

Dianna Roberts 19390 N.E. Multnomah Court Portland OR 97230
Katie Gaetjens Sr. Asst. County Counsel
1120 S.W. 5th Avenue, 15th floor Portland OR 97204
Mary Fassell Mult. Co. Adult Care Home Program
421 S.W. 5th Avenue, #405 Portland OR 97204-2221
Code Hearings Office

**If you have any questions concerning this proceeding,
please call (503) 823-7307 for further information.**

If you need a sign language interpreter or an FM loop amplifier for this hearing, you may contact Darla Broberg or Ruth York at the Hearings Office, 823-7307, or the City Information TDD, 823-6868.

Please call during business hours **AT LEAST TWO BUSINESS DAYS PRIOR** to the hearing so arrangements can be made.



Kaiser Foundation Health Plan of the Northwest • Kaiser Foundation Hospitals

Physician's Report of Disability

Date examined: _____ Work Related: ☐ Yes ☐ No ☐ UndeterminedDiagnosis (impression)* ACUTE STRESS

Plan (treatment)** _____

return appt. with _____ at _____
within _____ Referred to _____Return to work/activity: This individual has no evidence of a contagious or infectious disease and is physically able to return to: ☐ work ☐ school ☐ sports

PLEASE MARK APPROPRIATE BOX*

- ☐ Time loss authorized from _____ to _____
- ☐ Date released for modified work _____ ☐ for regular work _____
- ☐ No time loss authorized

Remarks unable to participate in any formal
hearing till 6/10/96

Physician's Signature _____

Date* 5/8/96Print Name* Dr. [Signature]

My signature on this form authorizes release of medical information regarding this treatment to my employer: _____ of their disability

insurance carrier: _____

Patient's signature: _____ Date _____

9-10482 10-94 OPMH

The patient is not required to sign authorization.

Write: OP Med Rec - Sec V Yellow Patient

DIANNA J ROBERTS

8106 17 54 123146 F

Name 8137-001

ONE-C H-S

S D C Y S F X
Health Record Number

Physical capabilities if applicable:

- ☐ No stooping, twisting, bending, squatting
- ☐ No work at or above shoulder level
- ☐ Minimal walking
- ☐ No repetitive gripping or bending of the _____ wrist.
- ☐ No use of the _____ hand
- ☐ No pushing or pulling ☐ Dry job only
- ☐ No climbing ☐ No vehicle operation
- other restrictions (see remarks section)

WEIGHT LIFTING CAPABILITIES (lbs)

- ☐ 0-10 ☐ 11-20 ☐ 21-35 ☐ 36-50 ☐ 50+
- ☐ No restrictions

* THESE AREAS MUST BE COMPLETED TO VALIDATE THE TIME LOSS.

** APPLICABLE IF PATIENT IS EMPLOYED AND JOB PERFORMANCE WILL BE EFFECTED.

FAX COVER LETTER

DATE 5 / 8 / 96

TO: Wm. W. Shatzer FAX 823-4347
PHONE 823-7307

FROM: DIANNA ROBERTS - FAX 1503/661-4763 (On 8:00 a.m. to 5:00 p.m.)
PHONE 1503/666-9121

(IF YOU HAVE A PROBLEM SENDING
THE FAX OR ARE TRYING TO SEND ONE
AFTER 5:00 P.M., PLEASE CALL 666-9191
AS I OFTEN TURN IT OFF AT 5:00 P.M.)

PAGES 2 INCLUDING COVER LETTER

COMMENTS _____



CITY OF
PORTLAND, OREGON
HEARINGS OFFICE

1120 S.W. 5th Avenue, Room 1017
Portland, Oregon 97204-1960
Land Use Hearings (503) 823-7719
Code/Towing Hearings (503) 823-7307
FAX (503) 823-4347
TDD (503) 823-6868

May 3, 1996

Ms. Dianna Roberts
19390 N.E. Multnomah Court
Portland, OR 97230

SUBJECT: Appeal of Dianna Roberts, No 161035; your letter of May 3, 1996

Dear Ms. Roberts:

I previously informed you of my determinations on these issues. I decline to reopen or relitigate these matters.

You will be limited to the witnesses on your original witness list, with the exception outlined in my April 22, 1996, letter.

The hearing will recommence on May 9, 1996, at 1:30 p.m. as previously scheduled.

Very truly yours,

WILLIAM W. SHATZER
CODE HEARINGS OFFICER

WWS:db

cc: Katie Gaetjens, County Counsel's Office
Mary Fassell, Mult. Co. Adult Care Home Program
(both with copies of Ms. Roberts' letter and attachments)

FAX COVER LETTER

RECEIVED

MAY 03 1996

HEARINGS OFFICE

DATE 5/3/96

TO: Wm W Shatz FAX 823-4347
PHONE _____

FROM: DIANNA ROBERTS - FAX 1503/661-4763 (On 8:00 a.m. to 5:00 p.m.)

PHONE 1503/666-9121

(IF YOU HAVE A PROBLEM SENDING
THE FAX OR ARE TRYING TO SEND ONE
AFTER 5:00 P.M., PLEASE CALL 666-9191
AS I OFTEN TURN IT OFF AT 5:00 P.M.)

PAGES 7 INCLUDING COVER LETTER

COMMENTS "original" list of 4 people
"revised" list

5/2/96 letter to Shatz

Motion re. Witness list (3)

May 2, 1996

FAX 823-4347

Mr. William W. Shatzer
CODE HEARINGS OFFICER
1120 S.W. 5th, Rm. 1017
Portland, OR 97204

RECEIVED
MAY 03 1996
HEARINGS OFFICE

RE: WITNESS LIST

APPEAL HEARING #161035 - DIANNA ROBERTS vs ACHP

Dear Mr. Shatzer:

On Thursday, April 25, 1996 denied my motion to reconsider my witness list allowing the County's Motion to Strike my witness list to stand.

Since I was never allowed the required Administrative (Discovery) Conference required by MCAR 890-080-330, which was requested numerous times by my attorneys, I request that you inform me as to where in your book of Administrative Hearing Regulations does it say that I was required to provide you with a witness list on the first day of my hearing as you did.

I, also, request that you informed where in your book of Administrative Hearing Regulations does it say that, once this list is provided, that it cannot be amended or changed in any way.

Please provide me with this information 72 hours prior to my next scheduled Hearing date of May 9, 1996 at 1:30 p.m.

Respectfully,

ROSEWOOD CARE, INC. (Est'd 1985)



Dianna J. Roberts
Owner/Manager

Attachments (1) Motion to Reconsider Witness List
(2) Current Witness List

cc: Barbara Clark, City Auditor
Commissioner Dan Saltzman

MEMORANDUM

TO: Katie Gaetjens, Sr. Asst. County Counsel, Multnomah County Oregon

FAX: 248-3377

RE: Appeal Hearing # 161035

FROM: Dianna Roberts

RE: Witness List for April 25 & 25, 1996


Witness List:

Floyd Walters	Cindy Peetz-Yochim	(New)
Al Gantenbein	Valerie Young	Tom Glenn
Heather Meyers	Debbie Warren	Betty Lowery
Lee Wilkes	Kyle Irwin	Penelope Smith
Donna Burns	Betty Walters	Vickie Greene
Mettie Hanson	Melinda Maxwell	Cheryl Morgan
Lois Fammatre	Doris Mitchell	Ray Kagel (U.S. Corp
Diane Shoemaker	Jim McConnell	Engineers - Idaho)
John Chabin	Mary Amdall-Thompson	
Betty Glantz	Judy Fowler	
Bunny Harold	Kathy Millan	
Peggy Brewer	Elaine Castlio	
Jean DeMaster	Ada Tyron	
Annette Potts	Carol Rex	
Heather Stewart	Dona Johnston	
Georgia Purcell	Cheryl Banks	
Sue Hanson	Vicki Kerr	
Dane Brown	Jim Banks	
Lori Eggers	Terri Johnson	
Kathy Dodd	Dr. Leslie Franson	
Mary Fassell	Betty Bowers	
Sheen Wu	Rick Davison	
Katie Gaetjens	Dr. Henry	
Jackie Doak	Dr. George Gerhing	
Winfield Scragg	Grover Simmons	
Darlene Scragg	Flonnie McClane	
Keith Rogers	Marilyn Klesh	
Darold Steiner	Vivienne Black	
Florida Steiner	Officer Eldon Long	
Micky McClane	Lt. Eric Lofgren	
Larry Ranieri		

cc: W. W. Shatzer

DATED this [#]25 day of April, 1996.

Respectfully submitted,

By: 
Dianna J. Roberts, Defendant
19390 N.E. Multnomah Ct.
Portland, OR 97230

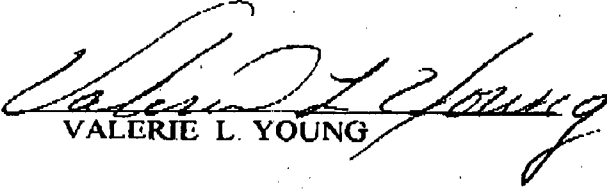
cc: Mr. Wm. W. Shatzer

Page 2

CERTIFICATE OF SERVICE

I hereby certify that I have made service of the foregoing Motion re
Appeal Hearing # 161035 Revocation of ACH License on Katie Gaetjens, Counsel for
Adult Care Home Program, Multnomah County Oregon by hand delivery on this
25th day of April, 1996, a certified true, exact and full copy thereof addressed to her
at her regular office address to-wit:

Katie Gaetjens
Sr. Assist. County Counsel
Multnomah County Oregon
1120 S.W. 5th, Rm. 1530
Portland, OR 97204


VALERIE L. YOUNG

Original

Witness list

Uchry Yang
Darral
Cheryl
Cindy

A Eulogy For Justice

After the brick wall at the end of a blind alley, where do Oregonians turn for justice?

by The Oregon Observer

HARNEY COUNTY—The Oregon Observer reported in the March, 1996 issue that a Burns citizen group had filed complaints of corruption, intimidation, conflict of interest and unprofessional and unethical activities involving a circuit court judge, a district attorney, a sheriff and various law enforcement personnel.

The charges were filed with Executive Director of the Commission on Judicial Fitness and Disability Pamela Knowles, as well as with Executive Director of the Government Standards and Practices Commission L. Patrick Hearn.

Copies of the complaints were sent to Chief Justice of the Oregon Supreme Court Wallace Carson Jr. It is the absolute duty of all justices, particularly the chief justice to take action when he is made aware that

a member of the judiciary is behaving inappropriately. Other copies of the complaints were forwarded to various state and federal legislators and others.

The group had obviously expected that since the intimidation charges in the complaint had referred to harassment of Harney county circuit court employees by a circuit court judge and the Harney county district attorney, that Knowles and her judicial fitness entity would take an interest to investigate the charges.

Likewise, the complaints involved questionable and unethical behavior by the local sheriff and his departmental personnel. One would assume that L. Patrick Hearn's Standards and Practices Commission would at least indicate whether they were interested or would forward this public complaint to the bureau in charge of police training and standards.

The complaint identified DA Timothy Colahan's conflict of interest in providing favorable treatment in a felony case involving one he refers to as "a friend of mine." In fact, the friend/defendant is Colahan's

former college roommate and personal companion of many years. He should have removed himself from the case for an obvious conflict of interest.

So far, the only response the local citizens' group has received was a letter from Knowles advising that the letter of complaint should be sent to the Oregon Bar Association since it involved the antics of Harney County District Attorney Timothy Colahan who of necessity is a member of the Oregon Bar.

The Oregon Bar Association is not a government agency, anymore than is the American Dental Association or American Medical Association. The main purpose of all of these private industry watchdog groups is to control the entry of practitioners into their respective monopolies and to protect those monopolies from action by the public. If ever a fox guarded a chicken coop, the Bar Association is one great hairy fox.

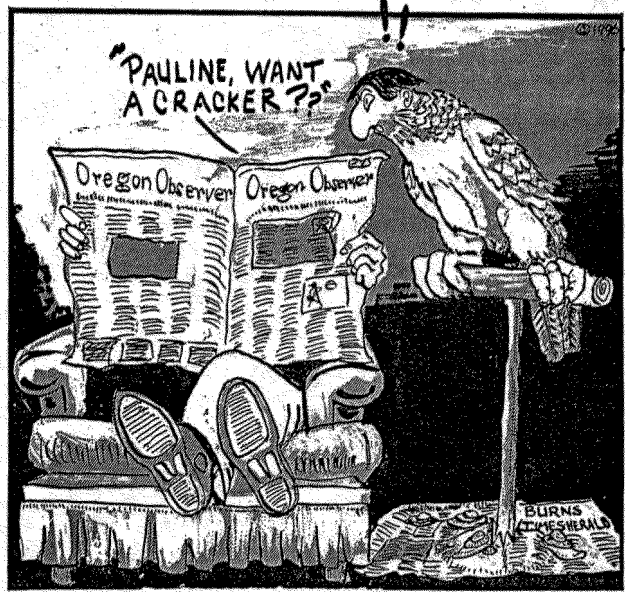
The sheriff and district attorney should have been required to face the complaints

Lesson No. 1:
Concerned citizens can present a mountain of evidence against "allegedly" out of control public official(s) to the highest levels of state and federal government. Government will not investigate itself.

publicly. They were not. And certainly, Colahan was not chastised by the "Bar." It is never the intent of the Bar to draw attention to itself or to its members. The Bar protects "its own." The modus operandi is NOT to bring the offending public officials to justice or

publicly confront them with their misdeeds as they would confront and charge an ordinary citizen. The Bar would get the situation handled "in-house," give the member a good, stern reprimand, or whatever.

The "straw that breaks the camel's back" was the "Bar's" referral of the charges against Colahan to Chief Counsel of the Oregon Criminal Justice Division (OCJ) Charles Pritchard. Pritchard already proved his allegiances three years ago when a complaint charging DA Colahan and Harney County Judge Dale White with corruption was forwarded to him by a local judge. When local citizens journeyed to Salem and confronted Pritchard eyeball to eyeball, he arrogantly informed the citizens that Colahan was a friend of his and had "in-



The Oregon Observer (italicized) wishes to thank Pauline Brayman of the *Burns Times Herald* (italicized) who gave us and a handful of concerned Harney citizens two pages of recent editorial press. Brayman editorialized about citizens who were brave enough and moral enough to demand exposure of the corrupted officials who have slowly run their (her's too) county into the ground. Unfortunately, Brayman chose to "parrot" the rhetoric of the corrupt instead of backing the virtuous. Nice try, Pauline, but the first step in becoming a believable, hard-hitting journalist is to be inflamed with a passion to do the right thing.

terned" under him in OCJ. It came as no surprise that Pritchard could find nothing wrong with Colahan's or White's activities.

Now three years later, more conclusive evidence of Colahan's misdeeds, including gross conflict of interest, was found

local Harney county level through the "Bar," through the OCJ and the OCJ's boss Attorney General Theodore Kulongsoski.

Interestingly, Oregon State Attorney General, Kulongsoski, who has been privy to all of these charges and events has just

this week been elected to a seat on the Supreme Court of Oregon. What does that do to your confidence in the so-called "justice system" of this state?

Lesson No. 2:
Since government will not punish its own, citizens have no tangible recourse against corrupt public officials who can literally do as they please.

Someone has noticed. Colahan was just

re-elected as Harney county district attorney, but he won by only a hundred votes against a challenger who lived in another county a hundred miles away, who had no residence in Harney county; a challenger who did not actively campaign, who put up no signs and had little name recognition. It was like running for office against a ghost. But, the county still has no excuse. All were aware of Colahan's past behavior and should have preferred a ghost.

The lesson a concerned group of Harney county citizens has learned for everybody is a sad one. There is no place to go. There is currently no recourse for an honest citizen to hold a dishonest public official accountable for his actions. Even though you, the taxpayer, pay to support entities like the Judicial Fitness and Disability Commission, et al, there is no method by which accountability can be required of any of these crooks because, from top to bottom, they all exist to protect each other FROM YOU.

Has 1996 seen the final burial of justice in Oregon? Is this article Justice's Eulogy? ...

HARNEY COUNTY RESIDENTS:
With the help of Bob Carpenter and a very few others, *The Oregon Observer* has exposed the corrupted you call elected officials. In retribution for his selfless efforts to clean up your corrupt county, the crooks are attempting to prosecute him. Carpenter is one of the finest Americans this country has ever produced and anyone in Harney County who is not screaming about the false and absurd charges pending against him should be ashamed.

Updates will follow as this case proceeds and we gain access to more information. ...

Victim #3 Dr. Clyde Reynolds

paying— after those services were rendered. In June, 1995, Forest Grove Disposal decided to terminate Dr. Reynolds' garbage collection services for his refusal to pay for them in advance. Were Dr. Reynolds' collection services terminated out of fear that his stand on the issue might spread? Forest Grove Disposal stopped picking up Dr. Reynolds' garbage without "contract" required notification.

After his collection services were terminated, Dr. Reynolds twice delivered his double-bagged garbage to the front gates of the disposal company. As a result Dr. Reynolds was indicted on two counts of "Placing Offensive Substances on Property" on July 6, 1995. Dr. Reynolds retained Portland attorney Dez Connall. Apparently a well-prepared Connall forced those in "charge" of the case to change their strategy.

On May 22, 1996, the Washington County District Attorney's Office re-filed charges against Dr. Reynolds. This time they upped the ante and charged the doctor with two counts of "Offensive Littering," two counts

"Rubbish" Cont'd from page 1

of "Pollutant Substances," and two counts of "Theft of Services." Who got mad over the original charges being dismissed: The city? The garbage company? The district attorney's office? Amazing! The good doctor decided that he didn't owe for what he hadn't received and he is charged with stealing something (services) that had yet to be rendered.

One would wonder how many thousands of tax dollars have been appropriated by the Washington County District Attorney's office to prosecute an absolute joke of a case. One would also wonder who is pulling the strings on this case and who wants to use our "justice" system to teach Dr. Clyde Reynolds the lesson "do not complain."

The Oregon Observer is currently looking into complaints from Forest Grove citizens regarding Forest Grove Disposal's attempts to extend the zoning more into the city to accommodate its intrusive refuse transfer station. One person who contacted our office stated "it is time that the people out here (Forest Grove) get involved and put a stop to our public officials doing as they please and that we put a stop to the control that big money and big corporations have over the city and the district attorney's office."

In the early stages of this case Dr. Reynolds wrote to both the city of Forest Grove and to Washington county officials and he got no response. Why? Is this a conspiracy or a consensus? Could there be a tie between Forest Grove Disposal owner Ambrose Calcagno, Forest Grove City Manager Ivan Burnett and Washington County District Attorney Scott Upham? Who is pulling DA Upham's strings? Any competent DA with the public's best interests in mind should realize that there are far more valid cases to go after.

This is not how tax-payer dollars should be spent and this is definitely not how a public official (the district attorney) should waste the court's time. Last, but certainly not least, would be the fact that the Washington County DA's office is prosecuting a civil case as a criminal matter. Why?

On the positive side, Dr. Reynolds appears to have no intentions of giving up this battle and he has learned that he can take his garbage to the dump for \$45.00 per year instead of paying the Forest Grove Disposal Company around \$450.00 per year.

Updates will follow as this case proceeds and we gain access to more information. ...

Aging Services Shut Down Exemplary Care Provider

Picture speaks a million tears: Aging Services appropriately named

Victims 4 and 5: Flonnie McClane Diana Roberts

by The Oregon Observer

Diana Roberts, according to the observations of doctors, nurses, social workers and client's family members, has been operating one of the cleanest, healthiest and most decent homes for elderly women in the state of Oregon for the last 12 years. On June 13, 1995, one of Roberts' clients Flonnie McClane, 82, was callously and unnecessarily jerked from her care by Aging Services Division. Because the care McClane received in Roberts' home was exemplary and she cared for McClane personally, Roberts began poking around into the politics of McClane's removal from her care.

This began the process of Aging Services seeing to it that Roberts' privately run elderly care home be shut down.

In just 11 short months McClane, a healthy, happy lady, deteriorated to the emaciated, wheelchair dependent state pictured. McClane has an atrophied wrist and purple bruises on her face. McClane also reported more bruising to be all up and down the entire left side of her body. She currently resides in a Nursing Home in East Multnomah County.

Roberts' stated that at 1:00 p.m. on June 13, 1995, an administrator of the East Branch Division of Aging Services Betty Glantz and McClane's Case Manager John Chabin arrived and proclaimed that McClane had phoned that morning stating that Roberts was kicking her out. Roberts received no phone call inquiring if this was true, nor did she receive a phone call announcing they would be moving McClane that day. McClane's daughter received a "courtesy" phone message on her recorder later that afternoon from Chabin stating, "He was just touching bases with her to let her know they had moved her mother."

Since 1989, McClane had resided in Roberts' home. McClane's daughter Jackie Doak had vehemently demanded that Chabin not move her mother. McClane's physician of five years had also written a two-page letter citing several physical and emotional reasons why McClane should not be moved.

Glantz and Chabin took McClane to Florida Halmagean's Adult Foster Care Home. Roberts said Halmagean reported to her later that Aging Services just dropped her off with no inventory of her possessions, no medical history, no doctor's orders for prescriptions, and no family names or phone numbers, nor did she know the reimbursement rate she could expect to receive for caring for this lady.

Ultimately, McClane was moved to Halmagean's son's Adult Foster Care Home. During the daytime McClane was transported to Providence Elderplace—a facility favored by the Aging Services Division—for her care. It was at Providence Elderplace where, according to Roberts, McClane suffered a disabling stroke. McClane through her tears passionately exclaimed, "They didn't even call my daughter!"

On June 27, 1995, at 5:30 p.m., Roberts received a phone call from Mr. Jim McConnell, Director of Multnomah County's Aging Services Division, ordering her not to phone McClane. "She is not your patient any longer," McConnell reportedly stated, and threatened he would have to get Protective Services involved if she did.

McConnell declined to believe Roberts' report that McClane had phoned her the previous day wanting to come home and was slurring her words as though she were over-medicated.

Roberts immediately contacted State Senator John Lim for assistance. Senator Lim was extremely concerned and contacted McConnell regarding the situation.

From that very day and like never before in the 12-year history of operation, Ms. Roberts' home was bombarded with "visitors" and inspectors from Aging Services Division, always in pairs. Roberts' home was "visited" 31 times in the next six months.

Subsequently, Multnomah County Aging Services Division has systematically closed Diana Roberts' Adult Foster Care Home down.

Still concerned about McClane, Roberts requested, through her medical doctor, a referral to a geriatric psychiatrist. She had requested, through her Aging Services Division Case Manager John Chabin, a geriatric psychiatric nurse visit. All requests were denied.

Roberts' persistent requests on McClane's behalf angered the Aging Services administrators she contacted. So, after providing care to over 30 frail and elderly ladies, and with numerous letters from doctors, nurses and family members attesting to Roberts' facility being one of the cleanest, well kept homes; that she had always given excellent care with emotional support and demonstrated competency; displayed exceptional skills in anticipating and assessing client needs over the past 12 years; was rated "No. 1" in the homes visited by Dr. Leslie Franson, who has visited every 60 days over the past 10 years, Roberts' home care facility was also described by a senior case manager as, "unique — in the top 10 percent."

Roberts recognized that her home had been target for closure. Referrals of patients to her home from the Aging Services Division's Placement Specialist Cheryl Morgan ceased, as did referrals from the private placement agencies. Family members of her residents have been contacted and told they had to move their relatives out—that payment for their care was being "terminated" and that their "medical coverage may also be jeopardized."

According to Linda Shelton, another adult foster care provider, she has been warned by Aging Services not to send written materials expressing dissatisfaction and frustration with the program—that this in-



Left: Flonnie McClane, May, 1995 in the care of Diana Roberts. Right: Flonnie McClane in April 1996 in the care of the state. It appears the people should shut the state down instead of the other way around.

formation will be taken into consideration when her license comes up for renewal.

In August 1995, all admissions to Roberts' home were restricted for 30 days. Every 30 days thereafter, Roberts would receive another letter restricting admissions for an additional 30 days. By November, 1995, a letter revoking her license was delivered.

The Oregon Observer was denied the right make a videotape recording of the Revocation Hearing.

"The hearings officer for my revocation hearing, William W. Shatzer, works under a contract signed by Mary M. Fassall. Mary is the sanctions specialist for Aging services who signed my letter of revocation. How can anybody expect to prevail at a 'hearing' with the deck stacked like this?" asked Roberts.

Roberts said that her witness list was disallowed and her testimony was limited to only eight hours as opposed to testimony over a four-day period from Multnomah County Aging Services Division. Although Senator Lim has attempted to intervene on

Roberts' behalf, he has been unable to lend sufficient support to avoid closure. Senator Lim has personally spoken with Governor Kitzhaber.

Roberts is currently in the process of conducting a Task Force Study for the governor and requests that others, who are or may have experienced this oppressive situation, to please write: The ROA Providers Association, 19390 N.E. Multnomah Ct., Portland, OR 97230. ***

"Warning: Studies have determined that excessive federal government is dangerous to the health of the Republic. In case of overdose, apply the 2nd Amendment liberally, and induce expulsion of the 16th until swelling subsides. If symptoms persist, see your Declaration of Independence."

HEARINGS OFFICE

UNIVERSAL INVESTMENTS

RECEIVED

JUL 05 1996

Forbidden Knowledge

HEARINGS OFFICE

- * How to get into offshore banking
- * How to understand economics quickly
- * How YOU are being victimized
- * How to avoid (not evade) taxation
- * How to set up offshore trusts
- * How to "free" yourself from the government
- * How to legally free yourself from the IRS
- * How to make 30% to 100% returns on investments
- * How to understand the politics of plunder

Learn How Government Bureaucrats Are Victimizing YOU!

Protect your assets and make more money than you ever dreamed of!

Call: Daryl Hollister (360) 737-6629 or
Gary Abraham (360) 896-9040

For: A free audio tape and prospectus.

Acquire Forbidden Knowledge

July 2, 1996

RECEIVED

'JUL 05 1996

Deborah L. Bogstad
Office of the Board Clerk
Multnomah County Commissioners
Suite 1510
1120 S.W. 5th Ave.
Portland, OR 97204

HEARINGS OFFICE

CERTIFIED MAIL
RRR - P 354 579 023

RE: DIANNA J. ROBERTS ACH LICENSE REVOCATION APPEAL # 161035
REQUEST FOR REVIEW OF HEARINGS OFFICER'S DECISION

By way of this letter I am requesting a review of Mr. William W. Shatzer's Order and Determination dated June 14, 1996 regarding the revocation of my Adult Care Home License.

I am requesting a NEW Hearing before an unbiased Code Hearings Officer:

- 1) Due to the extreme prejudice evidenced by Mr. Shatzer's tone, mannerisms, and body language.
- 2) Failure to schedule a prehearing conference to inform defendant of Code Office Appeal Hearings procedures, i.e., disclosure procedures, witness list requirements, subpoena procedures.
- 3) Rulings on motions, failure to rule on motions.
- 4) **Failure to remand to ASD once clear and unequivocal evidence was presented that ASD had not complied with its their own governing statutes, i.e., regarding conferences requested within the time frame outlined in the MCAR's.**
- 5) Failure to respect defendant's physician's orders.
- 6) Failure to respond to defendants request that hearing be adjourned until the following day due to defendant's frail physical conditions, while under doctors written orders not to even be participating in a 'formal hearing', (and, subsequent order to continue with hearing).
- 7) Plus, numerous other procedural errors.

Constitutional Violations:

- 1) 1st Amendment Right to allow video taping of my hearing by a member of the press. Reference: Public Meetings Law - ORS 192.610 through ORS 192.690.
- 2) 6th Amendment Right to Assistance of Counsel, i.e., Terry Lee and a later request to retain an attorney.

- to the introduction of evidence and, if so, what kind of objections may be made, and an explanation of the burdens of proof or burdens of going forward with the evidence; and
- 2) Whether the party may request a recess in the proceedings if the party determines that representation by an attorney is necessary to the protection of the party's rights. (A recess was, in fact, requested, and denied.)

Violation of ORS 183.413 (1): Failure to "fully inform" parties of "their rights and remedies with respect to actions taken by state agencies."

This failure affected defendant's right to call witnesses from her 'real' witness list -- not the one prepared in two (2) minutes in the hearings room (had defendant been informed this list was not amendable; but, in fact, sealed in concrete, defendant would have asked for time to prepare one); reference: Katie Gaetjens motion to strike defendant's witness list -- why would Katie want to suppress defendant's witnesses -- why would Katie not want Mr. Shatzer to hear these witnesses -- why would she not call **key** witnesses on ASD's original witness list, i.e., Jean DeMaster, Heather Stewart, Mary M. Fassell?

The only viable reason Katie Gaetjens would need to suppress witnesses, would be to cover up the violations of the Aging Services Division, i.e., photocopies of confidential medical records copied by Mary M. Fassell without written permission as required by Oregon State Law were presented into evidence by ASD and allowed by Mr. Shatzer. (Apparently, the primary reason Katie Gaetjens was required to sit through this hearing and be 'on the record' as representing the ACHP; although Mary M. Fassell still remained the prosecuting attorney, in actuality, as Katie acted only as a bystander and coach to Mary.)

A hearing is for parties to be heard -- and what Mr. Shatzer is under contract to do, a contract, in fact, which Katie signed also! A recess was requested by the defendant to obtain representation by an attorney and denied by Mr. Shatzer! (Further indication of the extreme prejudice demonstrated throughout the appeal hearing by Mr. Shatzer!)

Other issues of argument:

- a) Witnesses were allowed in the hearing room against the objection of the defendant. This allowed for the witnesses to hone their testimony according to previous testimonies.

Deborah Bogstad, Board Clerk

July 2, 1996

Page 2 of 5

- 3) 14th Amendment Right to equal protection of the laws. (Only allowed 1 week to prepare Closing Argument -- ref: letter dated May 27, 1996.)

Violation of ORS 183.413 (2): Failure of ASD to notify defendant of statutory notice of rights in this contested case, either orally or in writing of the following:

- 1) Whether a record will be made of the proceedings;
- 2) The manner of making the record;
- 3) Whether the record will be available to the parties;
- 4) The function of the record-making with respect to the perpetuation of the testimony and evidence;
- 5) The function of the record-making with respect to any appeal from the determination or order of the agency;
- 6) Whether an attorney will represent the agency in the case;
- 7) Whether parties ordinarily and customarily are represented by attorneys;
- 8) The title and function of the person presiding at the hearing;
- 9) The manner in which the testimony and evidence taken by the person presiding at the hearing are reviewed;
- 10) The effect of any determination by the person presiding at the hearing.
- 11) What person or group makes the final determination on behalf of the agency;
- 12) Whether the person presiding at the hearing is or is not an employee, officer or other representative of the agency;
- 13) Whether the person presiding at the hearing has the authority to make a final independent determination;
- 14) Whether there exists an opportunity for an adjournment to gather and present additional evidence;
- 15) Whether there exists an opportunity after the hearing and before the final determination or order to object to any proposed findings of fact, conclusions of law, summary of evidence, or recommendations of the officer presiding at the hearings; and,
- 16) A description of the appeal process from the determination or order of the agency;

In addition, in that defendant was not represented by an attorney, defendant was required to be informed, either orally or in writing of the following; however, was not:

- 1) Of a general description of the hearing procedure including: the order of presentation of evidence; what kinds of evidence are admissible; whether objections may be made

- b) Mr. Shatzer limited the testimony of the defendant to **ONLY 8 HOURS!**
- c) Mr. Shatzer refused to accept documents presented for evidence by the defendant, even when requested that they be accepted just 'for the record'.
- d) Official Code Hearing Office record of this appeal hearing is incomplete.
The first 15 minutes of the hearings appears to have been taped over, intentionally, to cover up the discussion over allowing the hearing to be videotaped by the press.
- e) **Evidence of Mary M. Fassell cutting, splicing, and editing out sections of a taped conference in the ACHP's office, was not allowed to be introduced on the record, or otherwise. (Affidavits of attendees, or of the tapes themselves -- further suppressed evidence of violations by the Aging Services Division.)**
- f) Motion presented on May 27, 1996 was not ruled on or responded to. This motion was presented prior to the Closing Arguments being presented on May 28, 1996. This motion was lengthy (approx. 8-10 pages -- copy attached). Due to the seriousness of the motion, i.e., that Mr. Shatzer disqualify himself for reasons noted above as well as conspiracy allegations (a federal offense), this motion needs to be addressed -- not washed under the carpet.

Further reason for review, Katie Gaetjen's, Closing Arguments were laced with misrepresentations and innuendoes not substantiated by actual testimony presented during the hearing.

In that the burden of proof lies with the Aging Services Division, based upon the actual evidence presented, the evidence is insufficient to merit revocation of Dianna Roberts adult care home license.

In closing, Dianna Roberts' position is that irreparable injury/financial has occurred by sanctions placed on her home by the ACHP. To avert further injury, and to enable her to continue operation of her Adult Care Home, which is, currently, still providing care to her long term elderly residents whose life, health, safety and welfare would be jeopardized, **IF** they were forced to relocate, **AND** whose families have contested previous attempts by the ACHP to force relocation in writing by way of exercising their Residents' Rights of Appeal (Note: MCAR 890-090-200, specifically, 890-090-280), defendant request an exception or stay of previous sanctions placed on her home by the ACHP with regard to acceptance of new residents, until review by the Multnomah County Commissioners, review of Mr. William W. Shatzer's conduct before the Oregon Government Ethics Commission, **AND** all further appeal rights have been exhausted by the defendant.

Deborah Bogstad, Board Clerk
July 2, 1996
Page 5 of 5

Respectfully,

ROSEWOOD CARE, INC. (Est'd. 1985)

A handwritten signature in dark ink, appearing to read 'DJR', followed by a horizontal line.

Dianna J. Roberts
Owner/Opertor

Attachment (1) Motion dated May 27, 1996

cc: William W. Shatzer
Katie Gaetjens
Jim McConnell
Carol Rex
Multnomah County Commissioners
Pete Kasting
Lawrence Kressel
Jean DeMaster
Robert F. Blackmore, Dunn Carney Allen Higgins & Tongue

CERTIFICATE OF SERVICE

I, hereby, certify that on the 2nd day of July, 1996, I have made service of the foregoing letter on Deborah Bogstad, Board Clerk of the Multnomah County Commissioners, by CERTIFIED MAIL to her regular office address to-wit:

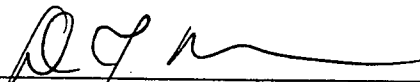
Deborah Bogstad, Board Clerk
Multnomah County Commissioners
1120 S.W. 5th Ave.
Rm. 1510
Portland, OR 97204

cc: Wm. W. Shatzer ✓
Code Hearings Officer
1120 S.W. 5th, Rm. 1017
Portland, OR 97204

FAX: 823-4347

Catherine Gaetjens, Sr. Asst. County Counsel
Multnomah County Oregon
1120 S.W. 5th Ave., Suite 1530
Portland, OR 97204

FAX 248-3377



Dianna J. Roberts, Defendant
19390 N.E. Multnomah Ct.
Portland, OR 97230

MULTNOMAH COUNTY ADMINISTRATIVE HEARING
FOR THE COUNTY OF MULTNOMAH
STATE OF OREGON

RECEIVED

JUL 05 1996

In the Matter of Dianna Roberts' Adult
Care Home License Revocation

Adult Care Home Program
Multnomah County Oregon
Aging Services Division, Plaintiff

vs.

Dianna J. Roberts, Defendant

HEARINGS OFFICE
APPEAL HEARING # 161035

SECOND MOTION

FOR HEARINGS OFFICER

TO DISQUALIFY SELF

On this day the 27th day of May 1996, Defendant moves the Code Hearings Officer to
disqualify himself in the above matter for the reasons indicated on the following pages:

Defendant moves for Wm. W. Shatzer, City of Portland Code Hearings Officer to disqualify himself from further involvement in the Appeal Hearing #161035 of Dianna Roberts vs.

Multnomah County Adult Care Home Program of Aging Services Division. Mr. Shatzer has demonstrated extreme prejudice continuously throughout the subject appeal hearing.

Defendant alleges a conspiracy exist between Wm. W. Shatzer and the Aging Services Division through Mary M. Fassell and Catherine Gaetjens.

Mary M. Fassell restricted admissions to the Defendants home on August 18, 1995. This was long before any complaints submitted into evidence for exhibit or included with the November 28, 1995 Letter of Revocation were substantiated. None of the complaints submitted would have existed were it not for Mary Fassell's refusal to grant the Defendant's request for a qualified geriatric psychiatric nurse. The reasoning behind this refusal stem from the 1992 letter of apology the defendant received from Mr. Stephen Balog at the time Mary Fassell threatened to fine the Defendant \$1,000.00 for being uncooperative simply for requesting that a request be made in writing.

The Adult Care Home Program removed the Defendant from the Registry of Adult Care Homes in December, 1995 and further correspondence between The Adult Care Home Program and the Defendant ceased. Referrals to her home were discontinued early in 1995 due to her

request for a qualified nurse for one of her patients', Flonnie McClane. As a result of being removed from the registry, the Defendant has not received any notices of meetings, notices of classes required for relicensing, the monthly newsletter or her license renewal application normally mailed in the first of April (60 days prior to license expiration). The Defendant was told this was standard procedure for the Adult Care Home Program. Why would such a '*procedure*' be developed; unless, of course, the ACHP knew in advance there was no chance of a Defendant prevailing in an Appeal Hearing? Providers have been known to be encouraged to request an Appeal Hearing by the ACHP. These same providers sensed something amiss and declined to do so. What happened to due process?

The Multnomah County Adult Care Home Program and Aging Services Division through Heather Stewart and Sheen Wu have maliciously slandered the Defendants' reputation as an Adult Care Provider. The Defendant has received reports that staff at the Adult Care Home Program office and the East Branch Division of Aging Services Division have given slanderous information over the phone to numerous prospective patients, encouraging these patients to either not move into the Defendant's AFH; or encouraged to move out on 2 different occasions involving 2 different patients, i.e. Vivianne Blake and Pauline Alvarez.

Why has Mary Fassell been so confident that the Defendant's home would not be relicensed? Because these hearings are a sham -- a pretense, solely to give the '*appearance*' of a 'fair and just

hearings process for the revocation of Adult Care Home Licenses.' Why is the county so sure of itself? When a conspiracy exist, those involved act overly confident -- with the knowledge that the Hearings Officer will back any decision made by their co-conspirator or co-conspirators.

These overly aggressive actions against the Defendant signifies the County has no intention of allowing her to remain in operation. They, again, can only be this confident when involved in a conspiracy. After studying the contract under which Mr. Shatzer accepts appointments, he accepts no responsibility for his decisions and the Aging Services Division even protects him from any legal actions brought against him by agreeing in the contract to pay for his legal expenses. With this arrangement, Mr. Shatzer accepts no accountability.

The Defendant has commissioned 13 letters requesting conferences and hearings. The MCAR's dictate that the ACHP schedule a conference within 10 days after receiving a request. An untold number of requests went unanswered. Another signification that the ACHP was planning to allow the Hearings Officer to follow their direction with revoking the Defendant's license. Being in direct violation of their own MCAR's the Hearings Officer is required to remand the hearing back to the agency. This request was made in the form of a motion on two (2) separate occasions. The Hearings Officer both time denied the motions.

On February 27, 1996, the Manager of the Adult Care Home Program stated in a public meeting that, "the provider never prevails in an Appeal Hearing." How could she **know** this unless a conspiracy existed? (Ref: Page 62 of the minutes transcribed of the meeting with the ROA Providers' Association)

The Appeal Hearings Officer has ignored the Defendants' orders from her Kaiser Permanente Health Care Provider to refrain from participating in any "formal hearings" for 30 days. He ordered not only the Defendants presence at Hearings, but also her participation, while under "acute stress". Defendant was threatened with a default decision, if she did not appear. During this appearance, Mr. Shatzer entered an order for the Defendant to sign a document prepared in advance by Ms. Catherine Gaetjens, Sr. Assist. County Counsel for Aging Services Division. The Defendant alleges a conspiracy existed between Ms. Gaetjens and Mr. Shatzer by way of his 'order for her to appear', as well his 'order for her to sign the document' under coercion.

Why else would the Adult Care Home Program so blatantly **NOT** respond to the Defendants three (3) different attorney's letters, or the Defendant's letters, unless they were certain 100% the hearings officer would back them as only parties involved in a conspiracy could be.

On May 9, 1996, Wm. W. Shatzer repeatedly referred to the Appeal Hearing #161035 of the defendant in a demeaning manner and referenced his duty to decide whether

or not the defendant should be allowed to continue operating her Adult Care Home of the past 12 years with such low regard as: '**this thing**'.

To refer to the Defendant's license to operate an Adult Care Home, her livelihood and sole source of income for the past 12 years as, '**this thing**' signified his low regard not only for the Defendant but also her chosen profession.

Mr. Shatzer has denied **EVERY MOTION** presented by the defendant. By indicating that participants in Administrative Hearings are not subject to protection by the United States Constitution and Bill of Rights, it is the position of the Defendant that Mr. Shatzer's "character is thus marked by every act which may define a Tyrant; and is, thereby, unfit to rule..." (Ref: Congress July 4, 1776, The unanimous Declaration of the thirteen United States.) Mr. Shatzer violated the First Amendment Right of Freedom of the Press by denying the press the right to make a video taped recording of the Defendants' Appeal Hearing.

Wm. W. Shatzer deprived the Defendant of due process by limiting her witnesses and also limiting her testimony to only 8 hours. When the Defendant demanded equal time as the ACHP -- testimony over a four (4) day period, Mr. Shatzer denied

her request. It was, also, the Hearings Officer responsibility to accept documentation presented to be "**marked and entered for the record**"; i.e. a White 3" Notebook, containing affidavits, letters of reference, letters confirming phone conversations, and letters requesting conferences (390 pages) -- the basis for the Defendants' defense -- of which the Hearings Officer, now, has absolutely no conception, since the Defendants' testimony was restricted. **Unfortunately, he refused.**

Defendant further alleges Wm. W. Shatzer's rulings, demeaning mannerisms, and general character, or lack of, violates the State of Oregon's Bar Code of Ethics. A fair Hearings Officer would have no reason to disqualify any witnesses unless he was, in fact, protecting them and in conspiracy with them; i.e., Multnomah County Aging Services Division. It is the duty of a Hearings Officer to listen to testimony from BOTH parties in order to made an unbiased decision.

Mr. Wm. W. Shatzer simply has not fulfilled his contract with the people of Multnomah County.

Defendant moves that Mr. Wm. W. Shatzer, City of Portland, Code Hearings Officer, disqualify himself from further involvement with subject Appeal Hearing for purposes of demonstrating extreme prejudice as outlined above.

DATED this 27 day of May, 1996.

Respectfully submitted,

By: Dianna J. Roberts
Dianna J. Roberts, Defendant
19390 N.E. Multnomah Ct.
Portland, OR 97230

CERTIFICATE OF SERVICE

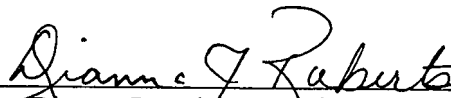
I, hereby, certify that on the 27 day of May, 1996, I served within **SECOND MOTION for Hearings Officer to Disqualify Self** the individual listed below, by a telephone facsimile communication device to the number listed below, of which the printed confirmation of receipt is attached:

Wm. W. Shatzer
Code Hearings Officer
1120 S.W. 5th, Rm. 1017
Portland, OR 97204

FAX: 823-4347

cc: Catherine Gaetjens, Sr. Asst. County Counsel
Multnomah County Oregon
1120 S.W. 5th Ave., Suite 1530
Portland, OR 97204

FAX 248-3377

A handwritten signature in cursive script, reading "Dianna J. Roberts", is written over a horizontal line.

Dianna J. Roberts, Defendant
19390 N.E. Multnomah Ct.
Portland, OR 97230

O N E Mult. Ct.
97230

RECEIVED

JUL 5 1996

HEARINGS OFFICE



Wm. W. Schatz
1120 SW 5, # 1017
Portland OR 97204

***** ACTIVITY REPORT *****

TRANSMISSION OK

TX/RX NO.	1457
CONNECTION TEL	96614763
CONNECTION ID	
START TIME	05/29 08:22
USAGE TIME	00'47
PAGES	1
RESULT	OK

*Sent County's
closing argument
to Roberts*

***** ERROR TX REPORT *****

TX FUNCTION WAS NOT COMPLETED

TX/RX NO.	1456
CONNECTION TEL	96614763
CONNECTION ID	
START TIME	05/29 08:04
USAGE TIME	14'25
PAGES	14
RESULT	NG
	10
	14

#161035

D. J. ROBERTS
ODL 717713
19390 NE MULTNOMAH CT 666-9121
PORTLAND, OREGON 97230 ●

24-12/1230 9068

5-21 1996

PAY TO THE ORDER OF Meapure City of Portland \$ 30.00

First Interstate Bank
First Interstate Bank of Oregon, N.A.
SE 121st & Division Branch
P.O. Box 16428
Portland, Oregon 97216-0428

FOR DC

⑆123000123⑆120 004700 7⑈ 9068

Transerv (503) 11-0484 PACKAGE EXPRESS		NON-NEGOTIABLE AIRBILL SHIPPER'S AGENT PICKUP TIME AND DATE <u>4:06 5/21</u>		SHIPPER'S COPY PDX 651813	
ACCT. NO.		DRIVER <u>M24</u>		DATE: _____	
DECLARED VALUE \$					
NAME <u>Darla Broberg</u> (503) 523-7307		NAME <u>Diana Roberts</u> (503) 644-9171		TELEPHONE	
FROM: COMPANY NAME <u>Hearings Office</u>		TO (FROM): COMPANY NAME <u>19390 NE Multnomah Court</u>			
ADDRESS <u>1120 SW 5th Ave</u>		ADDRESS <u>TRANSERV CANNOT DELIVER TO P.O. BOX</u>			
CITY <u>Portland</u> STATE <u>OR</u> ZIP <u>97204</u>		CITY <u>Portland</u> STATE <u>OR</u> ZIP REQUIRED <u>97230</u>			
REFERENCE		DEPT./ORDER NO.			
THIRD PARTY BILLING					
NAME <u>MUST BE CURRENT CUSTOMER</u> ADDRESS CITY STATE ZIP					
NO. PCS. DESCRIPTION WEIGHT RATE AMOUNT					
AIR EXPRESS LOCAL DELIVERY SPECIAL INSTRUCTIONS ADVANCED FEES					
NEXT DAY A.M. (DELIVER WEEKDAY) <input type="checkbox"/> EXPRESS LETTER (UP TO 8 oz.) <input type="checkbox"/> SUPER RUSH <input type="checkbox"/> <u>COLLECT \$11.00 FROM DIANE ROBERTS.</u> WRONG ADDRESS					
INTERNATIONAL <input type="checkbox"/> EXPRESS ENVELOPE (UP TO 2 lbs.) <input type="checkbox"/> DIRECT <input type="checkbox"/> CUSTOMER PACKAGE (OVER 2 lbs.) <input type="checkbox"/> DEFERRED <input type="checkbox"/> WAITING TIME					
*NEXT DAY BY 9 <input type="checkbox"/> OVERNIGHT TUBE <input type="checkbox"/> ROUND TRIP <input type="checkbox"/> OTHER					
*SATURDAY SVC. <input type="checkbox"/> LATE PICKUP <input type="checkbox"/> ROUTE <input type="checkbox"/> ATTEMPT					
*SAME DAY <input type="checkbox"/> DEL. DEADLINE					
*LATE PICKUP <input type="checkbox"/> LATE PICKUP					
*EXTRA CHARGE APPLIES					
RECEIVED BY TIME DATE D/M # RETURN TO TIME DATE D/M #					
SEE REVERSE SIDE FOR CONDITIONS OF CARRIAGE; LIMITATIONS OF LIABILITY.					

8K800 REDIFORM

RECEIPT		Date <u>April 5</u> 19 <u>96</u>	3600
Received From <u>Lianna Roberts</u>			
Address <u>19390 NE Multnomah Ct.</u>			
<u>Buy and to</u>		Dollars \$ <u>10.00</u>	
For <u>Tape copies - 161035, 4/5/96</u>			
ACCOUNT		HOW PAID	
AMT. OF ACCOUNT		CASH	<u>10.00</u>
AMT. PAID		CHECK	
BALANCE DUE		MONEY ORDER	
		By <u>D. Roberts</u>	

REDIFORM 81800

RECEIPT		Date <u>4/11</u> 19 <u>96</u>	4005
Received From <u>Diana Roberts</u>			
Address _____			
For <u>Dealing tape</u>		Dollars \$ <u>5.00</u>	
ACCOUNT		HOW PAID	
AMT. OF ACCOUNT		CASH	
AMT. PAID		CHECK	
BALANCE DUE		MONEY ORDER	
		By <u>J. Adams</u>	

April 20, 1996

**SECOND MAILING !!!
PLEASE RESPOND !!!
MAY 1, 1996**

FAX 306-5722

Jean DeMaster, Manger
Adult Care Home Program
Multnomah County Oregon
421 S.W. 5th, Rm. 405
Portland, OR 97204

**THIRD MAILING!!! RESTRICTED DELIVERY
CERTIFIED MAIL MAY 10, 1996**



Dear Jean:

**RE: MARY FASSELL'S PHONE CALL OF 4/19/96 TO VICKIE GREENE,
GRANDDAUGHTER OF PAULINE ALVAREZ**

Vickie informed me that Mary phoned her last evening to advise her that my home was unlicensed and that she had to move her grandmother within 30 days, **or she would make arrangements to have her moved!** Naturally, this caused Vickie to become alarmed; and she asked Mary, "Can't my grandmother live wherever she chooses?" (She is, after all, paying her own expenses.)

Vickie was aware that I was in the appeal process, so she asked Mary, "What if her appeal is not over within 30 days?" Mary said, "that had nothing to do with it," and **repeated** that she had to move her grandmother within 30 days. Perhaps you could suggest to Mary that she review the MCAR's, as clearly they are to be adhered to by all parties.

PART I

In at least two (2) places in the MCAR's (Multnomah County Administrative Rules) it states that:

- a) MCAR 890-090-140, "the sanction shall not become effective unless and until sustained by a **final order**."

THERE HAS BEEN NO FINAL ORDER; as I am, currently, in the middle of a hearing.

- b) MCAR 890-090-120, "The Director's decision or order shall become final, if a **written request** to the Director for a hearing is **not** filed within twenty days, at the office of the Adult Care Home Program, 4th floor, 421 S.W. 5th, 97204."
WRITTEN REQUEST WERE FILED ON MARCH 1, 1996. (Copies attached.)

Jean DeMaster, Manager ACHP
April 20, 1996
Page 2 of 3

Would you please advise me how Mary can be telling *anyone* that I do not have a license. Not only did she tell her that, she further slandered my reputation by telling her that:

- 1) I did not provide night care. **This is untrue.** (I have letters to the contrary.)
- 2) A resident broke her hip and was not attended to. **This is untrue.** (I have a letter of reference from the daughter of a lady who fell at 3:00 in the morning and I helped her back into bed. (I provided Mary with a copy of that incident report.) I, myself, left for Salem early that morning, leaving a mature, experienced relief caregiver in charge. I returned home around 3:00 or 4:00 that afternoon. When I found the lady still in bed, I immediately phoned 911. The doctors reported that x-rays indicated a 'stress fracture' in her hip. However, I was informed by the doctors that they could not determine if it was a new fracture or an old one, since the lady had continually complained about a pain in her hip the during the entire 2 plus years she was in my home. It was some time before they could determine whether or not she had suffered a stroke. I believe the complaint investigation report also reads that the lady died in my home; which is, of course, not true either. (It is important to note that this lady refused a hospital bed, which would have served to protect her.)
- 3) That I had violated the condition on my license which prohibited me from accepting any new residents. **This is untrue.** (Any decision or sanction is not final until the appeal process has been completed, which includes the appeal to the Code Hearings Officer, an appeal to the Multnomah County Commissions, the Circuit Court and the United States Supreme Court, **if need be.**) Not all those people on death row are guilty, you know!

PART 11

In your letter of 2/9/96 to Valerie Young, you indicated that:

"In general, the Multnomah County Administrative Rules state that, if there is no compensation (for services) involved at all, there is no requirement for an Adult Care Home License if an individual is caring for elderly people or people with disabilities."

Therefore, I must be allowed to rent a room to whomever I please for any dollar amount I please, so long as I do not charge *extra* for services. Correct, Jean?

Jean DeMaster, Manager ACIP
April 20, 1996
Page 3 of 3

With all due respect, Jean, the MCAR book has been my bed partner for the past few months, if I am misinterpreting them in any way, would you **please advise** via FAX 661-4763, or however.

Respectfully,

ROSEWOOD CARE, INC. (Est'd 1985)



DIANNA J. ROBERTS
OWNER/MANAGER

Attachments (4)

cc: Katie Gaetjens, Sr. Assist. County Counsel
Jim McConnell, Director Aging Services Division
Vickie Greene, Granddaughter
Commissioner Sharron Kelly
Commissioner Dan Saltzman
Senator John Lim

P.S. I request that you instruct Mary Fassell to cease and desist her apparent relentless harassment.



MULTNOMAH COUNTY OREGON

OFFICE OF COUNTY COUNSEL
1120 S.W. FIFTH AVENUE, SUITE 1530
P.O. BOX 849
PORTLAND, OREGON 97207-0849
(503) 248-3138
FAX 248-3377

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN, CHAIR
DAN SALTZMAN
GARY HANSEN
TANYA COLLIER
SHARRON KELLEY

COUNTY COUNSEL
LAURENCE KRESSEL

CHIEF ASSISTANT
SANDRA N. DUFFY

ASSISTANTS
J. MICHAEL DOYLE
KATIE GAETJENS
GERALD H. ITKIN
STEVEN J. NEMIROW
HELLE RODE
MATTHEW O. RYAN
JOHN S. THOMAS
JACQUELINE A. WEBER

April 12, 1996

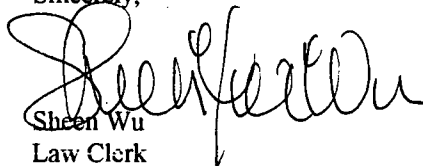
Mr. William W. Shatzer
Code Hearings Officer
City of Portland
1120 S.W. 5th Avenue, Room 1017
Portland, OR 97204-1960

Dear Mr. Shatzer:

This letter is to acknowledge the receipt of your letter of April 11, 1996 and the forwarded documents from Ms. Dianna Roberts.

To clarify the record, we are submitting a copy of a letter faxed and mailed to Ms. Roberts on April 4th, 1996 from Jean DeMaster, Program Manager, Adult Care Home Program. This letter was sent in response to her request for a conference and hearing.

Sincerely,


Sheen Wu
Law Clerk

cc: Dianna Roberts

RECEIVED

APR 15 1996

HEARINGS OFFICE



MULTNOMAH COUNTY OREGON

AGING SERVICES DIVISION (503) 248-8646
ADULT CARE HOME PROGRAM (503) 248-3000
FAX: (503) 308-5722
421 SW 5TH, ROOM 405
PORTLAND, OR 97204-2221

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN • CHAIR OF THE BOARD
DAN SALTZMAN • DISTRICT 1 COMMISSIONER
GARY HANSEN • DISTRICT 2 COMMISSIONER
TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

April 4, 1996

Dianna Roberts
19390 NE Multnomah Court
Portland, Oregon 97230

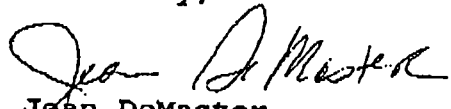
RE: My March 29, 1996 letter to you

Dear Dianna,

In responding to your request for a conference and a hearing on complaint #A96-0112, I indicated to you in my letter of 3/29/96 that I had referred this matter for scheduling. I was not aware at that time that the complaint had been added to the amended notice of revocation by Mary Fassell's February 12, 1996 letter or that it was being addressed in the current hearing process. Consequently, I was mistaken when I indicated a future conference and hearing would be scheduled.

I apologize for having sent you incorrect information. I hope that this letter clarifies the situation.

Sincerely,


Jean DeMaster
Program Manager
Adult Care Home Program

RECEIVED
APR 15 1996
HEARINGS OFFICE

April 16, 1996

FAX 248-3377

Mr. Laurence Kressel
Multnomah County Counsel
1120 S.W. 5th Ave., Suite 1530
P.O. Box 849
Portland, OR 97207-0849

RE: SHEEN WU

Dear Mr. Kressel:

Yesterday I received a copy of a letter dated April 12, 1996 from Ms. Sheen Wu addressed to Mr. William W. Shatzer, Code Hearings Officer, City of Portland. The purpose of this letter was to forward a copy of a letter to Mr. Shatzer which was addressed to me from Jean DeMaster, Manager, Adult Care Home Program dated April 4, 1996. Ms. Wu signed the letter to me as a Law Clerk from your office. I had never seen the letter Ms. Wu forwarded to Mr. Shatzer prior to yesterday.

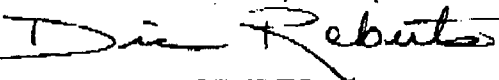
During the Appeal Hearing of my Adult Care Home License recently, Ms. Wu took an active role interrogating witnesses for the County. I fail to comprehend Ms. Wu's interest in my Adult Care Home License. It has been reported that she has repeatedly phoned (including evenings and weekends and left numerous messages) the daughter of one of my residents. This resident only recently moved to an Assisted Living Facility. It has become evident to me that the repeated phone calls from staff of Multnomah County Aging Services Division *and your office*, and the continued harassment of my current residents and staff has grossly effected my business to the point of blatantly undermining my ability to continue operating my Adult Care Home.

Often, when one of my residents move, they return to my home upon exploring other alternative housing. In the case of this resident, chances are slim to none, that she would ever consider returning to my home under the circumstances considering the repeated harassment from Multnomah County! As this lady was one of my all time favorite residents throughout eleven (11) years in business, you can well imagine how irate I am over the situation! When you share your home with five (5) other people, it's a rarity to find someone you can enjoy as much as I did this particular lady.

Would you please advise me Ms. Wu's position in your office; and, also, why her interest in my Adult Care Home.

Respectfully,

ROSEWOOD CARE, INC. (Est'd. 1985)



DIANNA J. ROBERTS
OWNER/OPERATOR

cc: Mr. W. W. Shatzer

RECEIVED

16 Py
'APR 15 1996

HEARINGS OFFICE

04/16/96 07:08

TX/RX NO.1239

P.002

***** ACTIVITY REPORT *****

TRANSMISSION OK

TX/RX NO. 1293
CONNECTION TEL 96614763
CONNECTION ID
START TIME 04/22 15:57
USAGE TIME 01'59
PAGES 2
RESULT OK

Post-It™ brand fax transmittal memo 7671		# of pages ▶ 2
To <i>D. Roberts</i>	From <i>Shadler</i>	
Co.	Co. <i>Hrgs. Ofc.</i>	
Dept.	Phone # <i>823-7307</i>	
Fax # <i>661-4763</i>	Fax # <i>823-4307</i>	

***** ACTIVITY REPORT *****

TRANSMISSION OK

TX/RX NO. 1289
CONNECTION TEL 92483377
CONNECTION ID
START TIME 04/22 15:41
USAGE TIME 01'38
PAGES 2
RESULT OK

Post-It™ brand fax transmittal memo 7671		# of pages ▶ 2
To <i>H. Gaiters</i>	From <i>Shalzer</i>	
Co.	Co. <i>Hrgs Ofc</i>	
Dept. <i>C. Council</i>	Phone # <i>823-7307</i>	
Fax # <i>248-3377</i>	Fax # <i>823-4347</i>	

***** ACTIVITY REPORT *****

TRANSMISSION OK

TX/RX NO. 1297
CONNECTION TEL 92483377
CONNECTION ID
START TIME 04/22 16:17
USAGE TIME 01'39
PAGES 2
RESULT OK

Post-It™ brand fax transmittal memo 7671		# of pages ▶ 2
To	Erudy Dieffly	
From	Shatzer	
Co.	Hrgs. Ofc	
Dept.	Co. Council	
Phone #	823-7307	
Fax #	248-3377	
Fax #	823-4347	

***** ACTIVITY REPORT *****

TRANSMISSION OK

TX/RX NO. 1299
CONNECTION TEL 93065722
CONNECTION ID
START TIME 04/22 16:32
USAGE TIME 01'31
PAGES 2
RESULT OK

Post-It™ brand fax transmittal memo 7671		# of pages ▶ 2
To <i>M. Fassell</i>	From <i>Shatler</i>	
Co.	Co. <i>Heas Office</i>	
Dept. <i>ACHD</i>	Phone # <i>823-7307</i>	
Fax # <i>306-5722</i>	Fax # <i>823-4347</i>	

April 18, 1996

FAX 823-4571

Barbara Clark, City Auditor
City of Portland
1220 S.W. 5th, Rm. 202
Portland, OR 97204

RECEIVED
APR 22 1996
HEARINGS OFFICE

Dear Ms. Clark:

This is to acknowledge your phone call of this morning, Ms. Clark, during which you stated: "You're not going to try this case all over, again!" If you will please take 5 minutes to 'read' your copy, you will note that I am not asking that you 'try this case' at all!

Ms. Clark, as the City Auditor and Supervisor of the Code Hearings Office, I would think you would want to be informed of the circumstances and the actions of personnel in the offices for which you are accountable. Of course, if I have been advised wrongfully, and, you are, in fact, not accountable for this office, would you please advise me who is.

As far as your complaint about *my* using up all *your* fax paper -- consider this:

- 1) Being deprived of an income.
- 2) Having used up all your savings.
- 3) Depleting your IRS Account, and.
- 4) Draining all the equity in your home of 17 years!

All to defend your reputation against factitious *anonymous* complaints and _____

With regard to your statement that, you hope this isn't going to continue. I was hoping that 13 months ago; however, my computer technician informed me Sunday that I had racked up over 143 file letters in many less months than that! The feeling is mutual -- I'd rather be fishing! As would a great number of other AFCH Operators.

NOW, MS. CLARK, HOW DO YOU FEEL ABOUT ME USING UP ALL OF YOUR FAX PAPER?

May I please have a response?

Barbara Clark, City Auditor
April 18, 1996
Page 2 of 2

Regards,

ROSEWOOD CARE, INC. (Est.d 1985)



DIANNA J. ROBERTS
OWNER/MANAGER

P.S. If it's any consolation, you're not the only person who phoned with a complaint. However, you may be pleased to hear that the R.O.A. Providers Association is currently doing a Task Force Study of the Adult Foster Care Home Industry in Multnomah County and Oregon. Perhaps some changes will result after the analysis of this study.

cc: W. W. Shatzer
Katie Gaetjens
Jim McConnell
Commissioner Dan Saltzman
Senator John Lim
Governor John Kitzhaber

April 17, 1996

RECEIVED
APR 22 1996
HEARINGS OFFICE

FAX 823-3377
823-4347

Mr. William W Shatzer
CODE HEARINGS OFFICER
City of Portland
1120 S.W. 5th, Rm. 1017
Portland, OR 97204

Ms. Katie Gaetjens
SR. ASSISTANT COUNTY COUNSEL
MULTNOMAH COUNTY OREGON
1120 S.W. 5th, Rm. 1530
Portland, OR 97204

RE: APPEAL HEARING # 161035 - DIANNA J. ROBERTS vs. MCACHP

Dear Mr. Shatzer & Ms. Gaetjens:

In lieu of the fact that Mr. Shatzer has ruled that Multnomah County Adult Care Home Program denied my due process rights with regard to Complaint A96-0112, I respectfully, request that the letter of revocation dated 11-28-95 be rescinded at this time.

The same circumstances exist with regard to the complaints enclosed with the 11-28-95 letter. I am enclosing copies of eight (8) letters requesting conferences, hearings, etc. within the required time frame as outlined in MCAR 890-080-200 and 300. Specifically, 'An Administrative conference shall be scheduled as soon as possible and no later than ten (10) days from a request for such a meeting.' (MCAR 890-080-330)

THIS WAS NEVER DONE!

All three (3) of my attorneys advised me they could not get the Adult Care Home Program to respond to their letters; which, they informed me, evidenced lack of *'bargaining in good faith.'*

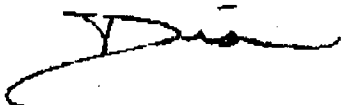
Mr. Shatzer & Ms. Gaetjens
April 17, 1996
Page 2 of 2

I request that all complaints, which were presented into evidence for this hearing including Complaint # A96-0109 and 43867, be ordered removed *permanently* from my public file. The basis for this request is that, had it not been for the staff of the Aging Services Division not utilizing good judgment in the case management of one of my residents with a mental disorder, these complaints would have never existed -- nor would this fine lady be confined to a wheelchair in a nursing home, today. Her health had improved, markedly, during her six (6) years in my home. Her mental status was, of course, a lifelong condition; which a professional stated he could do nothing about at this time due to her age according to several family members. My reputation as a care home operator should not be compromised by a resident, who cannot be held accountable for her actions. This situation has been discussed, at length, with my license person, Carol Isaman.

To proceed further with the subject hearing as scheduled on April 19th would not only be ludicrous, but a waste of my time and the tax dollars of Multnomah County.

Respectfully,

ROSEWOOD CARE, INC.



DIANNA J. ROBERTS (Est'd 1985)
OWNER/MANAGER

cc: Barbara Clark
Jim McConnell
Multnomah County Commissioners

Enc. (13) (This is what Ms. Clark was complaining about -- 13 pages of letters from my attorneys -- of FAX paper!)

April 20, 1996

FAX 306-5722

Jean DeMaster, Manger
Adult Care Home Program
Multnomah County Oregon
421 S.W. 5th, Rm. 405
Portland, OR 97204

RECEIVED
APR 22 1996
HEARINGS OFFICE

Dear Jean:

**RE: MARY FASSELL'S PHONE CALL OF 4/19/96 TO VICKIE GREENE,
GRANDDAUGHTER OF PAULINE ALVAREZ**

Vickie informed me that Mary phoned her last evening to advise her that my home was unlicensed and that she had to move her grandmother within 30 days, **or she would make arrangements to have her moved!** Naturally, this caused Vickie to become alarmed; and she asked Mary, "Can't my grandmother live wherever she chooses?" (She is, after all, paying her own expenses.)

Vickie was aware that I was in the appeal process, so she asked Mary, "What if her appeal is not over within 30 days?" Mary said, "that had nothing to do with it," and **repeated** that she had to move her grandmother within 30 days. Perhaps you could suggest to Mary that she review the MCAR's, as clearly they are to be adhered to by all parties.

PART I

In at least two (2) places in the MCAR's (Multnomah County Administrative Rules) it states that:

- a) MCAR 890-090-140, "the sanction shall not become effective unless and until sustained by a **final order**."

THERE HAS BEEN NO FINAL ORDER, as I am, currently, in the middle of a hearing

- b) MCAR 890-090-120, "The Director's decision or order shall become final, if a **written request** to the Director for a hearing is **not** filed within twenty days, at the office of the Adult Care Home Program, 4th floor, 421 S.W. 5th, 97204."

WRITTEN REQUEST WERE FILED ON MARCH 1, 1996. (Copies attached.)

Jean DeMaster, Manager ACHP

April 20, 1996

Page 2 of 3

Would you please advise me how Mary can be telling *anyone* that I do not have a license. Not only did she tell her that, she further slandered my reputation by telling her that:

- 1) I did not provide night care. **This is untrue.** (I have letters to the contrary.)
- 2) A resident broke her hip and was not attended to. **This is untrue.** (I have a letter of reference from the daughter of a lady who fell at 3:00 in the morning and I helped her back into bed. (I provided Mary with a copy of that incident report.) I, myself, left for Salem early that morning, leaving a mature, experienced relief caregiver in charge. I returned home around 3:00 or 4:00 that afternoon. When I found the lady still in bed, I immediately phoned 911. The doctors reported that x-rays indicated a 'stress fracture' in her hip. However, I was informed by the doctors that they could not determine if it was a new fracture or an old one, since the lady had continually complained about a pain in her hip the during the entire 2 plus years she was in my home. It was some time before they could determine whether or not she had suffered a stroke. I believe the complaint investigation report also reads that the lady died in my home; which is, of course, not true either. (It is important to note that this lady refused a hospital bed, which would have served to protect her.)
- 3) That I had violated the condition on my license which prohibited me from accepting any new residents. **This is untrue.** (Any decision or sanction is not final until the appeal process has been completed, which includes the appeal to the Code Hearings Officer, an appeal to the Multnomah County Commissions, the Circuit Court and the United States Supreme Court, **if need be.**) Not all those people on death row are guilty, you know!

PART 11

In your letter of 2/9/96 to Valerie Young, you indicated that:

"In general, the Multnomah County Administrative Rules state that, if there is no compensation (for services) involved at all, there is no requirement for an Adult Care Home License if an individual is caring for elderly people or people with disabilities."

Therefore, I must be allowed to rent a room to whomever I please for any dollar amount I please, so long as I do not charge *extra* for services. Correct, Jean?

Jean DeMaster, Manager ACHP


April 20, 1996

Page 3 of 3

With all due respect, Jean, the MCAR book has been my bed partner for the past few months, if I am misinterpreting them in any way, would you please advise via FAX 661-4763, or however.

Respectfully,

ROSEWOOD CARE, INC. (Est'd 1985)



DIANNA J. ROBERTS
OWNER/MANAGER

Attachments (4)

cc: Katie Gaetjens, Sr. Assist. County Counsel
Jim McConnell, Director Aging Services Division
Wm. W. Shatzer, Code Hearings Officer
Vickie Greene, Granddaughter
Commissioner Sharron Kelly
Commissioner Dan Saltzman
Senator John Lim

P.S. I request that you instruct Mary Fassell to cease and desist her apparent relentless harassment.

March 1, 1996

Jean DeMaster, Manager
Adult Care Home Program
Multnomah County Oregon
421 S.W. 5th, Room 405
Portland, OR 97204

Dear Ms. DeMaster:

**RE: MARY FASSELL'S LETTER DATED 2-12-96 -SANCTIONS
SUSPENSION OF NEW ADMISSIONS TO MY HOME UNTIL FINAL ORDER**

In accordance with the MCAR'S and to protect my rights as outlined in subject regulations, I respectfully, request a **CONFERENCE** with you to refute allegations outlined in Mary's letter.

Regards,

ROSEWOOD CARE, INC.



Dianna J. Roberts
Owner/Manager

CERTIFICATE OF SERVICE

I, hereby, certify that I have made service of the foregoing letter requesting a conference dated March 1, 1996 on Jean DeMaster, Manager Adult Care Home Program, Multnomah County Oregon by HAND DELIVERY on March 1, 1996, a certified true, exact and full copy thereof addressed to her at her regular office address to-wit:

Jean DeMaster, Manager
Adult Care Home Program
Multnomah County Oregon
421 S.W. 5th, Rm. 405
Portland, OR 97204


Linda Shelton

March 1, 1996

Jean DeMaster, Manager
Adult Care Home Program
Multnomah County Oregon
421 S.W. 5th, Room 405
Portland, OR 97204

Dear Ms. DeMaster:

**RE: MARY FASSELL'S LETTER DATED 2-12-96 -- SANCTIONS
SUSPENSIONS OF NEW ADMISSIONS TO MY HOME UNTIL FINAL ORDER**

In accordance with the MCAR's and to protect my rights as outlined in subject regulations, I respectfully, request a **HEARING** to refute the allegations outlined in Mary's letter.

Regards,

ROSEWOOD CARE, INC.


Dianna J. Roberts
Owner/Manager

CERTIFICATE OF SERVICE

I, hereby, certify that I have made service of the foregoing letter requesting a hearing dated March 1, 1996 on Jean DeMaster, Manager Adult Care Home Program, Multnomah County Oregon by HAND DELIVERY on March 1, 1996, a certified true, exact and full copy thereof addressed to her at her regular office address to-wit:

Jean DeMaster, Manager
Adult Care Home Program
Multnomah County Oregon
421 S.W. 5th, Rm. 405
Portland, OR 97204


Linda Shelton

***** ACTIVITY REPORT *****

RECEPTION OK

TX/RX NO.	1275	
CONNECTION TEL	666 9121	6614763
CONNECTION ID		
START TIME	04/22 06:03	
USAGE TIME	04'29	
PAGES	7	
RESULT	OK	

April 17, 1996

FAX 823-3377
823-4347

Mr. William W. Shatzer
CODE HEARINGS OFFICER
City of Portland
1120 S.W. 5th, Rm. 1017
Portland, OR 97204

Ms. Katie Gaetjens
SR. ASSISTANT COUNTY COUNSEL
MULTNOMAH COUNTY OREGON
1120 S.W. 5th, Rm. 1530
Portland, OR 97204

*Submitted
at 4/19
hearing*

RE: APPEAL HEARING # 161035 - DIANNA J. ROBERTS vs. MCACHP

Dear Mr. Shatzer & Ms. Gaetjens:

In lieu of the fact that Mr. Shatzer has ruled that Multnomah County Adult Care Home Program denied my due process rights with regard to Complaint A96-0112, I respectfully, request that the letter of revocation dated 11-28-95 be rescinded at this time.

The same circumstances exist with regard to the complaints enclosed with the 11-28-95 letter. I am enclosing copies of **eight (8)** letters requesting conferences, hearings, etc. within the required time frame as outlined in MCAR 890-080-200 and 300. Specifically, 'An Administrative conference shall be scheduled as soon as possible and no later than ten (10) days from a request for such a meeting.' (MCAR 890-080-330)

THIS WAS NEVER DONE!

All three (3) of my attorneys advised me they could not get the Adult Care Home Program to respond to their letters; which, they informed me, evidenced lack of *'bargaining in good faith.'*

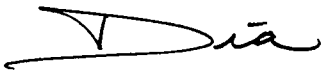
Mr. Shatzer & Ms. Gaetjens
April 17, 1996
Page 2 of 2

I request that all complaints, which were presented into evidence for this hearing including Complaint # A96-0109 and 43867, be ordered removed *permanently* from my public file. The basis for this request is that, had it not been for the staff of the Aging Services Division not utilizing good judgment in the case management of one of my residents with a mental disorder, these complaints would have never existed -- nor would this fine lady be confined to a wheelchair in a nursing home, today. Her health had improved, markedly, during her six (6) years in my home. Her mental status was, of course, a lifelong condition; which a professional stated he could do nothing about at this time due to her age according to several family members. My reputation as a care home operator should not be compromised by a resident, who cannot be held accountable for her actions. This situation has been discussed, at length, with my license person, Carol Isaman.

To proceed further with the subject hearing as scheduled on April 19th would not only be ludicrous, but a waste of my time and the tax dollars of Multnomah County.

Respectfully,

ROSEWOOD CARE, INC.



DIANNA J. ROBERTS (Est'd 1985)
OWNER/MANAGER

cc: Barbara Clark
Jim McConnell
Multnomah County Commissioners

Enc. (13)

EMILY SIMON

620 S.W. FIFTH SUITE 1204
PORTLAND, OREGON 97204
FAX 503 241-2587

ATTORNEY AT LAW
503 241-1553

GEORGE WILLIAMS
ATTORNEY AT LAW

September 6, 1995

BY HAND DELIVERY

Jean DeMaster
Adult Foster Care Home Program
421 SW Fifth Avenue
Room 405
Portland, Oregon 97204-2221

Re: Dianna Roberts and Rosewood Foster Care

Dear Ms. DeMaster:

Pursuant to the agency's administrative rules, we are requesting a formal hearing on the allegations raised in your August 18, 1995 letter to Ms. Roberts. We request a hearing to contest the allegations in the complaints referred to in the agency's August 18th letter.

We hereby waive the ten-day notice requirement under Multnomah County Licensing Ordinance 8.90.090(B).

We are requesting a formal hearing to preserve Ms. Roberts' due process rights; however, we believe this matter can be better resolved without a hearing and are therefore requesting a conference with you, as is also suggested in your August 18, 1995 letter. We have a proposal to present to the agency which we think will resolve this matter to the satisfaction of all concerned parties and would like to meet with you to discuss it as soon as possible. We are available to meet with you during the afternoon of September 8, all day on September 11, the afternoon of September 12, and anytime on September 13 through 15.

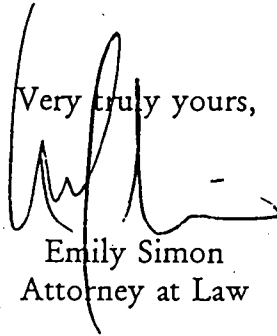
Also, I understand that county employees have gone to my client's home and are copying documents. Please be advised that this is unnecessary. If there are any additional documents that you would like to review, please let me know and we will gladly provide them.

(1)

page 2

Thank you for your kind attention and consideration in this matter. Please do not hesitate to call my office to schedule a meeting at your earliest convenience, or if you have any questions or concerns about this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Emily Simon', written over the typed name.

Emily Simon
Attorney at Law

ES:lbw

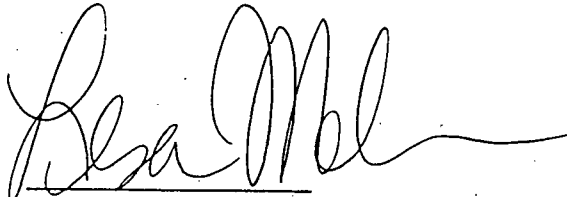
cc: client

demaster.ltr

CERTIFICATE OF SERVICE

I hereby certify that I have made service of the foregoing letter on Jean DeMaster of the Adult Foster Care Home Program by hand delivery on September 6, 1995, a certified true, exact and full copy thereof addressed to her at her regular office address to-wit:

Jean DeMaster
Adult Foster Care Home Program
421 SW Fifth Avenue
Room 405
Portland, Oregon 97204-2221



LESA WOLMAN

NEWTON, COTTLE & WESTENHAVER, P.C.

ATTORNEYS AT LAW
4000 KRUSE WAY PLACE, BLDG 1, SUITE 265
LAKE OSWEGO, OREGON 97035
(503) 697-7272

FAX (503) 636-6995
*ALSO ADMITTED IN CALIFORNIA

MARK O. COTTLE
GREGORY C. NEWTON*
DANA A. WESTENHAVER

September 18, 1995

VIA FACSIMILE 306-5722

Multnomah County
Aging Services/Adult Homes
Gene DeMaster
421 SW 5th Room 405
Portland, OR 97204-2221

RE: *Dianna Roberts @ 19390 N.E. Multnomah Ct.*

Dear Ms. DeMaster:

My above named client requests a hearing on the issues presented in your issuance of a temporary sanction, September 15, 1995 letter, against my client accepting new residents.

My client requests a complete copy of her file. Once it is ready, please contact me and will arrange for payment of the copy costs and have it picked up.

Very truly yours,

Mark O. Cottle

Jean, as of October 5, 1995, I have not received the complete file of Ms. Roberts. I have her public disclosure file, but I need the complete file. When will it be ready to be picked up?

(4)

NEWTON, COTTLE & WESTENHAVER, P.C.

ATTORNEYS AT LAW

4000 KRUSE WAY PLACE, BLDG 1, SUITE 265

LAKE OSWEGO, OREGON 97035

(503) 697-7272

FAX (503) 636-6995

*ALSO ADMITTED IN CALIFORNIA

MARK O. COTTLE
GREGORY C. NEWTON*
DANA A. WESTENHAVER

September 22, 1995

Adult Foster Care Home Program/Multnomah County
Jean DeMaster
421 SW 5th, Room 405
Portland, OR 97204-2221

RE: *Dianna Roberts*

Dear Jean:

I have reviewed the complaints at issue with regards to the administrative sanctions. There are however, two issues that must be resolved prior to addressing the complaints.

1. Rule 890-080-400 Attorney Fees: It is my client's position that your agency is without authority to enforce this provision and said provision violates her Due Process rights as specified by the United States Constitution. I also find no statutory authority for this provision. Quit the opposite, ORS 183.497 allows for my client's attorney fees to be awarded but does not allow your agency's attorney fees to be awarded.

Prior to a hearing, it is demanded that your agency, in writing, state that Rule 890-080-400 is unenforceable. My client views your attempt to collect attorney fees as a means of thwarting ever Provider's Due Process.

Unless we receive written confirmation with regards to this issue within 7 days we will file for an injunction.

2. 890-080-120(k)(I) states "Has acquired substantial complaints pertaining to the health, safety, and welfare of residents." It is my client's position that this provision of the rules is unenforceable as it also violates Due Process.

If a complaint has been lodged against my client and your agency does an investigation and is unable to substantiate the complaint, it is without authority to impose any sanctions. The question then arises, how can you impose "Administrative Sanctions" based upon those prior complaints? Your agency is without authority to consider unsubstantiated complaints when it imposes any Administrative Sanctions. To allow your agency to consider unsubstantiated complaints when it imposes essentially temporary sanctions violates the very core of due process. Also, even if you do impose sanctions for past substantiated complaints, and then years down the road you receive new complaints, which have not been substantiated, and you impose temporary sanctions, you essentially are making a Provider pay twice for the same complaint, and imposing penalties upon a provider for unsubstantiated complaints. Your whole process violates my client's due process rights.

I will now briefly review the complaints. I was not provided a date on which the

(5)

complaints were filed, so I will attempt to reference them for you.

A. This is a handwritten complaint, filed I believe on 9/12/95.

1. A/P threw food at A/V in W #1's AFH

Since we do not know who A/P is for sure, it is our belief that A/P is a resident with mental disabilities. She has been removed from the home, as you know, and therefore poses no threat to anyone in the home.

2. A/P hit AFH caregiver in the face and smacked her hard. Caregiver quit.

Again, it is our belief that A/P is a resident and as you know, the resident has been removed from the home.

B. This is a handwritten complaint.

1. The Complainant called and A/P hung up on Complainant and would not call A/V to the telephone.

This directly involve conduct by my client. The Complainant is another Provider who was unlawfully interfering in my client's business operation. Secondly, A/V has her own telephone and the Complainant has her number. It is the policy of this home that when a resident has h/her own phone, the resident's phone is to be used.

C. This is a handwritten complaint with 8 items.

1. My client nor her staff has ever commented the acts specified in number 1.

2. Both of the A/Vs have mental disabilities, it is not uncommon for either one of them to loose their wallet one day and find it the next.

3. This is true, as we understand the complaint. My client has a strict policy not to allow anyone to confront or argue with a resident.

4. This is not true. It is not the Provider that dictates the doctors of the Residents. It is the Guardian or Resident that makes this decision. The doctor that saw this A/V had been the Resident's doctor for years.

5. This is not true, A/V fell at about 3:00 a.m., my client helped her into bed after determining the resident was not in any pain. It was A/V's habit to sleep until 11:00 a.m. My client left at 9:00 a.m. leaving the residents in the care of a substitute caregiver (I believe the Complainant), when my client returned at approximately 4:00 p.m. she checked on A/V and called 911 as the resident was in pain. The patient went to the Hospital and then to a Nursing care facility where she died several months latter.

6. This is true. However, this resident, for the past 3 years, had been in the habit

(6)

of going to the bathroom without assistance. She fell and was taken to the hospital. As you know, some resident unfortunately fall and bruise themselves.

7. The complainant is attempting to use one persons hypochondria to get even with a past employer. A/V ("Flo") has for the past 6 years complained about chest and side pains. She did it every night. Every doctor's visit she was checked for chest and side pains and nothing was ever found.

8. This is simply untrue.

D. This is a typed document with 7 issues.

This entire complaint relates, as far as we know, to "Flo". It has been documented that Flo has mental disabilities. This complaint was commenced by my client. She request the ombudsmen to visit Flo at her new home, however, it was requested that Tom Glenn not be used, which was agreed upon, and sadly that agency demonstrated its lack of integrity and sent Mr. Glenn who came back with 7 complaints after an interview with a mentally dysfunctional person.

1. This is not true
2. This is not true, yes my client bought sweat suits but returned the money and receipts.
3. This is not true, as far as my client knows, A/V did not have an electric blanket.
4. This is untrue.
5. This is untrue. Actually it is Flo that slaps caregivers and residents.
6. This is untrue.
7. The dog weighs over 20lbs and my client is unable to hold it. The cat is not allowed on the counter top.

E. This is a typed complaint with three issues. They involve Mt Hood Medical Center.

1. A/V falls a lot and my client desires praise for admitting her to the hospital when this happens.
2. The complaintant does not make sense. On the one hand, A/V is going to the hospital "numerous time" and the provider "continued to bring A/V there [hospital]," but the doctor does not know about the frequency of the occurrence. Which is it, we take the resident to the hospital to much or not enough?
3. This is silly. My client is not in control of where the ambulance takes a patient. Check with the EMS board of your county, there are strict rules on transportation. Secondly, it is my client's understanding the Mt. Hood Medical Center is an acceptable provider for this A/V's HMO.

F. I did not receive a copy of the last complaint for some reason, my client told me what it consists of and I believe part of a police report.

Again this involves Flo.

(7)

September 22, 1995

RE: *Dianna Roberts*

1. A/P was withholding food and not taking care of A/V. This is untrue.
2. My client called 911 because Flo was being abusive and combative. This is true.
3. My client refuses to accept Flo into her home. This is true. Flo is a potential danger to the rest of the residents.

Although I am not sure who each A/V and A/P are and it is very difficult to respond to allegation when you do not know who the victim or perpetrator are, if my client is correct, I am shock that your agency suspended her admissions based upon these complaints.

The vast majority of the complaints regard Flo a person suffering mental difficulties. Your agency is using a confused woman to violate the law. My client will not stand for it. Flo cannot remember individuals she is associated with on a regular basis, let alone be trusted to remember past events. She is abusive, combative and at best a very difficult individual. Should this proceed, I will of course be forced to take Flo's deposition, which would be a sad state of affairs for this situation. It is my understanding that Flo does not have the capability to even act as a witness as she is mentally incompetent.

Each of the complaints have sever credibility problems. As professionals, your agency should be able to determine the weight given to complaints when they come in and contradict themselves, are derived from past employees who incriminate themselves in the complaint or are derived from a woman who is mentally dysfunctional and make such wild accusations (41 decree homes-have your investigator check the thermostat, I think you will find that it does not go that low), that the credibility of the whole complaint is called into question. It seems that your agency is missing one very clear point in being a regulatory agency, you do have discretion to give weight to complaints, just like a police officer has discretion to give credit to complaints.

These complaints just do not add up. On the one hand there is complaints that my client does not call 911 enough and on the other to much. She is even being accused of freezing the residents. 27 of your people have been in my client's home, they know what the temperature is. Enough is enough.

I also understand that you are now requesting my client's last 7 years of records. By what authority is this request made and for what purpose? Your agency's conduct is bordering on harassment.

Please reconsider your sanctions, your agency's conduct violates the law and unless the sanctions are lifted my client will file for injunctive relief and pursuant to the law, my client entitled to attorney fees if she prevails.

Very truly yours,


Mark O. Cottle

NEWTON, COTTLE & WESTENHAVER, P.C.

ATTORNEYS AT LAW

4000 KRUSE WAY PLACE, BLDG 1, SUITE 265

LAKE OSWEGO, OREGON 97035

(503) 697-7272

MARK O. COTTLE
GREGORY C. NEWTON*
NANA WESTENHAVER

FAX (503) 636-6995

*ALSO ADMITTED IN CALIFORNIA

October 31, 1995

Adult Care Home Program
Mary M. Fassell
421 SW Fifth St., Rm 405
Portland, OR 97204

RE: *Diana Roberts*

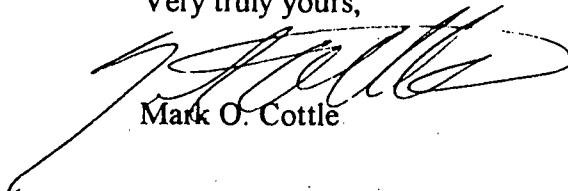
Dear Ms. Fassell:

My client, Ms. Roberts, requests a hearing on the fine you have imposed in your October 20, 1995 letter. The reasons for the hearing are the issues raised in your letter.

Specifically, Ms. Roberts had the records to be reviewed and her cleaning person, without authority took the records and discarded them. The records no longer exists. Therefore, she cannot produce something that she does not have.

Please call so we can discuss this matter. I do have a letter from the cleaning person to verify that she did dispose of the records and said letter is enclosed.

Very truly yours,



Mark O. Cottle

cc: Client

(9)^A

Statement
I, Rosalie Lopo, have been cleaning Sianna
Lobato's home for approximately a year now.
On Oct. 17th Sianna phoned me regarding a
bag full of files, which she was unable
to locate. She asked me if I knew where
the were. I asked if she was referring
to the one under her desk by her waste
paper basket. She said yes. I explained
that I had taken them out with the
trash the last time I cleaned, Sep.
4th. Because they had been sitting there
for some time and I assumed she wanted
them taken out.

Sianna immediately became upset and
explained that they were the files the
County was coming out to look at today,
and they were not going to leave
her.

Rosalie Lopo

(9) 6

NEWTON, COTTLE & WESTENHAVER, P.C.

ATTORNEYS AT LAW

4000 KRUSE WAY PLACE, BLDG 1, SUITE 265

LAKE OSWEGO, OREGON 97035

(503) 697-7272

MARK O. COTTLE
GREGORY C. NEWTON*
DANA A. WESTENHAVER

FAX (503) 636-6995
*ALSO ADMITTED IN CALIFORNIA

October 20, 1995

Multnomah County
Aging Services/Adult Homes
Gene DeMaster
421 SW 5th Room 405
Portland, OR 97204-2221

RE: *Dianna Roberts @ 19390 N.E. Multnomah Ct.*

Dear Ms. DeMaster:

My above named client requests a hearing on the issues presented in your issuance of your last temporary sanction against my client accepting new residents. My client also would like an informal conference in order to resolve the problems. Lets schedule that right away.

Thank you for your time.

Very truly yours,

Mark O. Cottle

(10)

JAMES C. NIEDERMAYER

ATTORNEY AT LAW
2100 S.E. HELMONT STREET
PORTLAND, OREGON 97214

PHONE (503) 233-8550
FAX (503) 233-8560

P.O. BOX 4078
PORTLAND, OREGON 97208

October 26, 1995

HAND DELIVERY

Supervisor
Adult Care Home Program
Aging Services Division
Multnomah County
421 S.W. Fifth Ave., Room 405
Portland, OR 97204

Re: Dianna Roberts
Communication Dated 10/13/95 from Jean DeMaster
Concerning Suspension (Copy Enclosed)

Dear Supervisor:

In accordance with the authorization below, request
is made for a conference as well as a hearing in regard
to the above matter.

Very truly yours,

James C. Niedermeyer

JCN:mc

Encl.

cc w/encl.: Catherine Gaetjens, County Counsel

IT IS SO AUTHORIZED.

Dianna Roberts

(11)

JAMES C. NIEDERMEYER

ATTORNEY AT LAW
2100 S.E. BELMONT STREET
PORTLAND, OREGON 97214

PHONE (503) 233-8550
FAX (503) 233-8560

P.O. BOX 4078
PORTLAND, OREGON 97208

October 26, 1995

HAND DELIVERY

Supervisor
Adult Care Home Program
Aging Services Division
Multnomah County
421 S.W. Fifth Ave., Room 405
Portland, OR 97204

Re: Dianna Roberts
Communication DATED 10/20/95 from Mary Fassell
Concerning Fine (Copy Enclosed)

Dear Supervisor:

In accordance with the authorization below, request
is made for a hearing in regard to the above matter.

Very truly yours,

James C. Niedermeyer

JCN:mc
Encl.
cc w/encl.: Catherine Gaetjens, County Counsel

IT IS SO AUTHORIZED.

Dianna Roberts

(12)

JAMES C. NIEDERMEYER
ATTORNEY AT LAW
2100 S.E. BELMONT STREET
PORTLAND, OREGON 97214

PHONE (503) 233-8550
FAX (503) 233-8560

P.O. BOX 4078
PORTLAND, OREGON 97208

November 17, 1995

HAND DELIVERY

Supervisor
Adult Care Home Program
Aging Services Division
Multnomah County
421 S.W. Fifth Ave., Room 405
Portland, OR 97204

Re: Dianna Roberts
Communication Dated 11/09/95 from Jean DeMaster
(Copy Enclosed)

Dear Supervisor:

In accordance with the authorization below, request
is made for a conference as well as a hearing in regard
to the above matter.

Very truly yours,

James C. Niedermeyer

JCN:mc
Encl.
cc w/encl.: Catherine Gaetjens, County Counsel

APPROVED:

Dianna Roberts

(13)



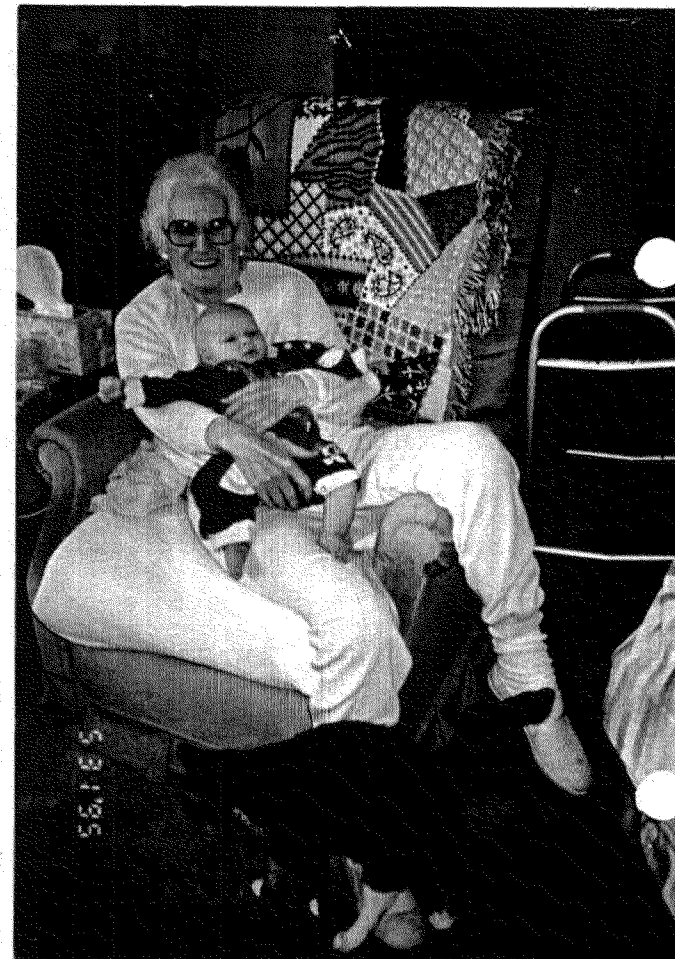
FLONNIE McCLANE - TODAY!!! 4/96



**FLONNIE McCLANE 5/18/95
3 WEEKS BEFORE ASD YANKED
HER OUT OF MY HOME!!!**



FLONNIE McCLANE - TODAY!!! 4/96



**FLONNIE McCLANE 5/18/95
3 WEEKS BEFORE ASD YANKED
HER OUT OF MY HOME!!!**



MULTNOMAH COUNTY OREGON

AGING SERVICES DIVISION (503) 248-3646
ADULT CARE HOME PROGRAM (503) 248-3000
421 SW 5TH, ROOM 405
PORTLAND, OR 97204-2221

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN • CHAIR OF THE BOARD
DAN SALTZMAN • DISTRICT 1 COMMISSIONER
GARY HANSEN • DISTRICT 2 COMMISSIONER
TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

3/29/96

Dianna Roberts
Owner/Manager
Rosewood Care, Inc.
19390 NE Multnomah Court
Portland, Oregon 97230

Dear Dianna,

You have requested a conference and a hearing regarding Complaint # A96-0112 which you indicate is dated 1/30/96.

I have referred this matter to Mary Fassell who will be calling you to set a date for the Administrative Conference. In addition, the Adult Care Home Program will request that the Hearings Officer schedule a hearing on this matter as soon as that is possible.

Please let me know if this is not acceptable to you.

Sincerely,

Jean DeMaster
Jean DeMaster, Program Manager
Adult Care Home Program

*Attachments
to 4/10 fax*

AN EQUAL OPPORTUNITY EMPLOYER

March 22, 1996

04/10/96 16:08

TX/RX NO.1203

P.002

Jean DeMaster, Manager
Adult Care Home Program
Aging Services Division
Multnomah County Oregon
421 S.W. 5, Rm. 405
Portland, OR 97204

Re: Complaint # Log A96-0112 - 1/30/96

Dear Ms. DeMaster:

Regarding subject complaint, I would like to request a **CONFERENCE AND HEARING**, as required in the MCAR's to contest these allegations and the investigator's findings.

Regards,

ROSEWOOD CARE, INC.



Dianna J. Roberts
Owner/Manager

cc: Carol Isaman
Public File

Reference: MCAR 890.080.320-330 & 340
MCAR 890.080.240 (h)

MCAR 890.090.140, "If an operator makes a timely written request for a hearing to appeal an administrative sanction imposed for reasons other than a finding of imminent danger to the residents, the sanction shall not become effective unless and until sustained by a final order." **IMMINENT DANGER NEVER SITED!**

MCAR 890.090.120, "The Director's decision or order shall become final **IF** a written request to the Director for a hearing, as required by MCC 8.90.090 (A), is **NOT** filed within (20) days, at the office of the Adult Care Home Program, 421 S.W. 5th, 97204. **COMPLAINT DELIVERED ON 3/21/96 BY JAYNA**

March 1, 1996

Jean DeMaster, Manager
Adult Care Home Program

Multnomah County Oregon
421 S.W. 5th, Room 405
Portland, OR 97204

Dear Ms. DeMaster:

**RE: MARY FASSELL'S LETTER DATED 2-12-96 -- SANCTIONS
SUSPENSIONS OF NEW ADMISSIONS TO MY HOME UNTIL FINAL ORDER**

04/10/96

16:11

5038234347

HEARINGS

P.001

***** ACTIVITY REPORT *****

INCOMPLETE RECEPTION

TX/RX NO.	1203	
CONNECTION TEL	666 9121	6614763
CONNECTION ID		
START TIME	04/10 16:08	
USAGE TIME	02'31	
PAGES	2	
RESULT	NG	
	2	

RECEIVED

APR 10 1996

HEARINGS OFFICE

FAX COVER LETTER

RECEIVED

APR 10 1996
HEARINGS OFFICE

DATE 4, 10, 96

TO: Wm. W. Shatzer FAX 823-4347
PHONE 823-7307

FROM: DIANNA ROBERTS - FAX 1503/661-4763 (On 8:00 a.m. to 5:00 p.m.)
PHONE 1503/666-9121

(IF YOU HAVE A PROBLEM SENDING
THE FAX OR ARE TRYING TO SEND ONE
AFTER 5:00 P.M., PLEASE CALL 666-9191
AS I OFTEN TURN IT OFF AT 5:00 P.M.)

1 (503) 829-7288

PAGES 6 INCLUDING COVER LETTER

COMMENTS _____

FAX 306-5722

April 5, 1996

Jean DeMaster, Manager
Adult Care Home Program
Multnomah County Oregon
421 S.W. 5th, Rm. 405
Portland, OR 97204-2221

Dear Jean,

RE: COMPLAINT #A96-01112 - YOUR LETTER OF APRIL 4, 1996

I am in receipt of subject letter and have review Mary Fassells' letter of February 12, 1996. Despite Mary wording in her letter, 'this letter shall also serve as an amendment to the notice of revocation of your license', does resolve the issue. It is a mere attempt to circumvent the MCAR's and undermine Operator's Rights.

I was **NOT** provided a copy of the investigation of subject complaint until March 21st. Testimony regarding this complaint was by Mr. Statzer on March 27 & 28.

Under MCAR 890.080.300 Compliance with Administrative Sanctions.

MCAR 890.080.330 An administrative conference shall be scheduled as soon as possible and no later than ten (10) days from a request for such a meeting.

THIS WAS NOT DONE BY THE ADULT CARE HOME PROGRAM.

MCAR 890.080.340 The purpose of an administrative conference is to review the sanction and/or the deficiencies and violations cited, and to provide information to the operator which can assist in achieving satisfactory compliance within required time limits

THIS WAS NOT DONE BY THE ADULT CARE HOME PROGRAM.

RECEIVED

APR 5 1996

HEARINGS OFFICE

Under MCAR 890.080.200 Notification of Administrative Sanctions.

MCAR 890.080.220 If as a result of an inspection or investigation the Director finds that a resident has been abused, injured or neglected, the Director will immediately notify the operator verbally to stop the abusive conduct. Within 30 days after the completion of the investigation report, the Director will follow up with a written notification to the operator of the violations and administrative sanction.

THIS HAS NEVER BEEN DONE!

Jean, I could site more examples for you and we can toss MCARs and MCC ordinances back and forth **ALL WEEK**; however, it would not resolve anything, today. The bottom line is Mary continues to flagrantly violate the MCAR's and Operators Rights, which, as you was the basis of my complaint to the Oregon State Bar. Their investigation is still ongoing.


What Multnomah County Aging Services Adult Care Home Program needs to reconsider is the complexity of the Administrative Rules:

THE BOTTOM LINE IS THAT NEITHER THE ADULT CARE HOME PROGRAM NOR ADULT FOSTER CARE PROVIDERS CAN ADHERE TO ALL OF THEM!!! APPARENTLY, NO ONE WANTS TO ACCEPT RESPONSIBILITY FOR THIS FACT; OR HEAR ABOUT IT FROM ME, SINCE MY APPOINTMENT TO SIT ON THE NEW RULES RE-WRITE COMMITTEE THIS PAST YEAR BY MY ASSOCIATION PRESIDENT WAS NOT JUST DENIED BUT NOT EVEN ACKNOWLEDGED BY YOU!!!

The MCARs should cover the MCC ordinances -- not just site them by number. The MCARs have always been referred to as '*The Bible*' for Adult Foster Care Providers. If, in fact, it is not, then the MCC Ordinances should be included or attached to the MCARs provided to Operators.

Regards,

ROSEWOOD CARE, INC.


Dianna J. Roberts
Owner/Manager

P.S. Mary should not be allowed to continue even attempting to circumvent the MCARs.

FAX COVER LETTER

DATE ⁵ 4, ~~7~~, 96

TO: Wm W. Shatzer FAX 823-4347
PHONE 823-7307

FROM: DIANNA ROBERTS - FAX 1503/661-4763 (On 8:00 a.m. to 5:00 p.m.)
PHONE 1503/666-9121

(IF YOU HAVE A PROBLEM SENDING
THE FAX OR ARE TRYING TO SEND ONE
AFTER 5:00 P.M., PLEASE CALL 666-9191
AS I OFTEN TURN IT OFF AT 5:00 P.M.)

PAGES 3 INCLUDING COVER LETTER

COMMENTS _____

RECEIVED
APR 5 1996
HEARINGS OFFICE

April 3, 1996

FAX 823-4347 & CERTIFIED

Mr. William W. Shatzer
HEARINGS CODE OFFICER
City of Portland
1120 S.W. 5th, Rm 1017
Portland, OR 97204-1960

Dear Mr. Shatzer:

RE: REQUEST FOR CONTINUANCE
APPEAL HEARING #161035 - DIANNA J. ROBERTS

With all due respect, Mr. Shatzer, I request a continuance of the subject hearing until a legal opinion has been provided to me regarding the issue of **Complaint # A96-0112**. Please reference the attached letter dated March 29, 1996 from Jean DeMaster offering to set up a date for an Administrative Conference on this complaint.

Since you received testimony **last week** from 5 witnesses from the prosecution regarding this complaint during the 2 days of the subject hearing; it is my position that I have not been afforded due process. They were:

- 1) Faye Brown (Volunteer with Mt. Hood Mental Health)
- 2) Bill Ryan (Mt. Hood Mental Health)
- 3) Dane Brown (Flanagan)
- 4) Helen Flanagan (13-day resident of my home in February, 1996)
- 5) Pam Slaughter (ASD)

Heather Stewart, ACH Program, is scheduled to testify, also; as she was in my home with Pam Slaughter investigating this complaint. **Copies of their report were only delivered to me on March 21, 1996 by Jayna Indeck, ACH Program.**

Please advise via FAX 661-4763, or phone 666-9121.

Respectfully,

ROSEWOOD CARE, INC. (Est'd 1985)

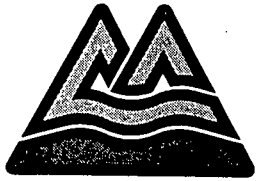


DIANNA J. ROBERTS
OWNER/MANAGER

RECEIVED
SR
APR 6 1996

HEARINGS OFFICE

cc: Katie Gaetjens, Assist. Multnomah County Counsel FAX 248-3377



MULTNOMAH COUNTY OREGON

AGING SERVICES DIVISION (503) 248-3646
ADULT CARE HOME PROGRAM (503) 248-3000
421 SW 5TH, ROOM 405
PORTLAND, OR 97204-2221

BOARD OF COUNTY COMMISSIONERS
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DAN SALTZMAN • DISTRICT 1 COMMISSIONER
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TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

3/29/96

Dianna Roberts
Owner/Manager
Rosewood Care, Inc.
19390 NE Multnomah Court
Portland, Oregon 97230

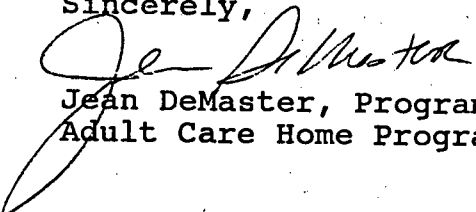
Dear Dianna,

You have requested a conference and a hearing regarding Complaint # A96-0112 which you indicate is dated 1/30/96.

I have referred this matter to Mary Fassell who will be calling you to set a date for the Administrative Conference. In addition, the Adult Care Home Program will request that the Hearings Officer schedule a hearing on this matter as soon as that is possible.

Please let me know if this is not acceptable to you.

Sincerely,


Jean DeMaster, Program Manager
Adult Care Home Program

RECEIVED

APR 6 1996

HEARINGS OFFICE

19390 NE Mult. Ct.
97230

CERTIFIED

P 354 579 013

line over top of envelope to
right of the return address



RECEIVED
APR 5 1996
HEARINGS OFFICE

Wm. W. Shatzen
1120 SW 5, Rm 1017
Portland OR 97204



April 4, 1996

FAX 306-5722

Jean DeMaster, Manager
Adult Care Home Program
Multnomah County Oregon
421 S.W. 5th, Rm. 405
Portland, OR 97204-2221

Dear Jean,

RE: YOUR LETTER OF 3/29/96 - COMPLAINT # A96-0112 DATED 1/30/96

Regarding my request for an Administrative Conference on subject complaint, you indicate that you have referred the matter to Mary Fassell. You, also, ask me to let you know if that was acceptable to me. Jean, I don't know why you would ask a question that you already know the answer to. I don't believe Mary has any right even handling my current Appeal, which I have repeatedly objected to before Mr. Shatzer, the Hearings Code Officer.

However, he has already heard testimony from 5 witnesses regarding this complaint. At this point, I fail to see whether it matters if anything is 'acceptable' to me or not! You and your staff seem determined to railroad me right out of my home that I have worked hard at to keep now for 17 years!

I learned just last Saturday (March 30, 1996) that Heather Stewart was **OVERLY INSTRUMENTAL** in encouraging my last and only private pay client to move to another facility. Your department's 'concern' in my resident's 'health, safety, and welfare' has gone beyond 'concern'. It can be classified as nothing but sabotage of my business, interference in the happiness of my residents, their families, my employees and my health!

When I come across as less than welcoming to your weekly visitor, she has no understanding of why this is. I don't like to burst anyone's bubble, but this may be why you have such a high staff turnover. Obviously, she didn't know what she was signing up for, when she took the job with the Adult Care Home Program!

Obviously, the answer to your question is, no! I will await a response from you.

Regards,

ROSEWOOD CARE, INC.


DIANNA J. ROBERTS
OWNER/MANAGER

RECEIVED
APR 4 1996
HEARINGS OFFICE

FAX COVER LETTER

DATE 4.4.96

TO: Wm. W. Shatzer FAX 823-4347
PHONE 823-7307

FROM: DIANNA ROBERTS - FAX 1503/661-4763 (On 8:00 a.m. to 5:00 p.m.)
PHONE 1503/666-9121
(IF YOU HAVE A PROBLEM SENDING
THE FAX OR ARE TRYING TO SEND ONE
AFTER 5:00 P.M., PLEASE CALL 666-9191
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PAGES 2 INCLUDING COVER LETTER

COMMENTS _____

RECEIVED

APR 4 1996 DS

HEARINGS OFFICE

FAX 306-5722 & CERTIFIED MAIL
P 354 579 009

April 2, 1996

Mary Fassell, Prosecuting Attorney
Aging Services Division
Adult Care Home Program
Multnomah County Oregon
421 S.W. 5th, Ave, Rm. 405
Portland, OR 97204

Dear Ms. Fassell:

RE: APPEAL HEARING - # 161035 April 5, 1996 1:30 p.m.
April 25 and 26th, 1996

ADULT CARE HOME PROGRAM VS. DIANNA J. ROBERTS

Please provide **DISCLOSURE** information prior to subject Appeal Hearing to:


Dianna J. Roberts
19390 N.E. Multnomah Ct.
Portland, OR 97230

Regards,

ROSEWOOD CARE, INC


DIANNA J. ROBERTS
OWNER/MANAGER

cc: Laurence Kressel, Multnomah County Counsel FAX 248-3377
Wm. W. Shatzer, City of Portland - Code Hearings Officer FAX 823-4347

RECEIVED
APR 3 1996 
HEARINGS OFFICE

April 10, 1996

FAX 823-4347 & CERTIFIED

Mr. William W. Shatzer
HEARING CODE OFFICER
City of Portland
1120 S.W. 5th, Rm. 1017
Portland, OR 97204-1960

RECEIVED

APR 11 1996

Dear Mr. Shatzer:

HEARINGS OFFICE

RE: APPEAL HEARING #161035 - DIANNA J. ROBERTS vs. ACHP

With regard to subject Appeal Hearing and your deferred exhibits and testimony on a Complaint # A96-0112 dated 1/30/96, copies of the findings of this complaint were not delivered to me until March 21, 1996 by Jayna Indeck of the ACHP.

If you will reference the enclosed photo copies, I have attempted, to the best of my ability, of adhere to the MCAR's governing Adult Care Homes as is Jean DeMaster in her letter of March 29, 1996 offering to set up a conference. The purpose of these conferences are, "to review the sanction and/or the deficiencies and violations cited, and to provide information to the operator which can assist in achieving satisfactory compliance within required time limits." (890.080.340)

These MCAR's are very specific as to time frame requirements. I have met **ALL** these requirements with regard to the complaint in question.

I received the letter of revocation of my license on November 30, 1995. With all due respect, Mr. Shatzer, Mary's letter of February 12, 1996 is a mere attempt to circumvent the MCAR's and undermine Operator's Rights.

I, respectfully, request that you not allow this flagrant violations of the MCAR's. This complaint must be dealt with according to the time frame/requirements outlined in the MCAR's.

Respectfully,

ROSEWOOD CARE, INC. (Est'd 1985)



DIANNA ROBERTS
OWNER/MANAGER



MULTNOMAH COUNTY OREGON

AGING SERVICES DIVISION (503) 248-3646
ADULT CARE HOME PROGRAM (503) 248-3000
421 SW 5TH, ROOM 405
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3/29/96

Dianna Roberts
Owner/Manager
Rosewood Care, Inc.
19390 NE Multnomah Court
Portland, Oregon 97230

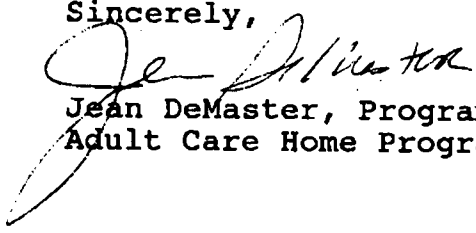
Dear Dianna,

You have requested a conference and a hearing regarding Complaint # A96-0112 which you indicate is dated 1/30/96.

I have referred this matter to Mary Fassell who will be calling you to set a date for the Administrative Conference. In addition, the Adult Care Home Program will request that the Hearings Officer schedule a hearing on this matter as soon as that is possible.

Please let me know if this is not acceptable to you.

Sincerely,


Jean DeMaster, Program Manager
Adult Care Home Program

March 22, 1996

CERTIFIED MAIL - P 474 616 227

Jean DeMaster, Manager
Adult Care Home Program
Aging Services Division
Multnomah County Oregon
421 S.W. 5, Rm. 405
Portland, OR 97204

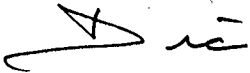
Re: Complaint # Log A96-0112 - 1/30/96

Dear Ms. DeMaster:

Regarding subject complaint, I would like to request a **CONFERENCE AND HEARING**, as required in the MCAR's to contest these allegations and the investigator's findings.

Regards,

ROSEWOOD CARE, INC.



Dianna J. Roberts
Owner/Manager

cc: Carol Isaman
Public File

Reference: MCAR 890.080.320-330 & 340
MCAR 890.080.240 (h)

MCAR 890.090.140, "If an operator makes a timely written request for a hearing to appeal an administrative sanction imposed for reasons other than a finding of imminent danger to the residents, the sanction shall not become effective unless and until sustained by a final order." **IMMINENT DANGER NEVER SITED!**

MCAR 890.090.120, "The Director's decision or order shall become final **IF** a written request to the Director for a hearing, as required by MCC 8.90.090 (A), is **NOT** filed within (20) days, at the office of the Adult Care Home Program, 421 S.W. 5th, 97204. **COMPLAINT DELIVERED ON 3/21/96 BY JAYNA**

March 1, 1996

Jean DeMaster, Manager
Adult Care Home Program
Multnomah County Oregon
421 S.W. 5th, Room 405
Portland, OR 97204

Dear Ms. DeMaster:

**RE: MARY FASSELL'S LETTER DATED 2-12-96 -- SANCTIONS
SUSPENSIONS OF NEW ADMISSIONS TO MY HOME UNTIL FINAL ORDER**

In accordance with the MCAR's and to protect my rights as outlined in subject regulations, I respectfully, request a **HEARING** to refute the allegations outlined in Mary's letter.

Regards,

ROSEWOOD CARE, INC.



Dianna J. Roberts
Owner/Manager

References: MCAR 890.080.320 & 340
MCAR 890.080.240 (h)

MCAR 890.090.140, "If an operator makes a timely written request for a hearing to appeal an administrative sanction imposed for reasons other than a finding of imminent danger to the residents, the sanctions shall not become effective unless and until sustained by a final order."

MCAR 890.090.120, "The Director's decision or order shall become final **IF** a written request to the Director for a hearing, as required by MCC 8.90.090 (A), is **NOT** filed within twenty (20) days, at the office of the Adult Care Home Program, 421 S.W. 5th, 97204.

March 1, 1996

Jean DeMaster, Manager
Adult Care Home Program
Multnomah County Oregon
421 S.W. 5th, Room 405
Portland, OR 97204

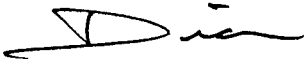
Dear Ms. DeMaster:

**RE: MARY FASSELL'S LETTER DATED 2-12-96 -SANCTIONS
SUSPENSION OF NEW ADMISSIONS TO MY HOME UNTIL FINAL ORDER**

In accordance with the MCAR'S and to protect my rights as outlined in subject regulations, I respectfully, request a **CONFERENCE** with you to refute allegations outlined in Mary's letter.

Regards,

ROSEWOOD CARE, INC.



Dianna J. Roberts
Owner/Manager

Reference: MCAR 890.080.320-330 & 340
MCAR 890.080.240 (h)

MCAR 890.090.140, "If an operator makes a timely written request for a hearing to appeal an administrative sanction imposed for reasons other than a finding of imminent danger to the residents, the sanction shall not become effective unless and until sustained by a final order."

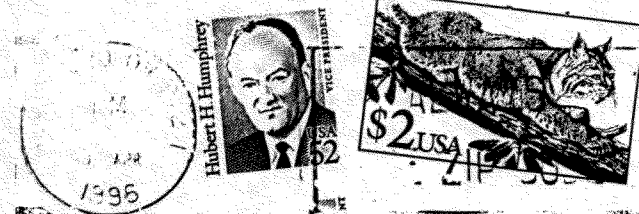
MCAR 890.090.120, "The Director's decision or order shall become final **IF** A written request to the Director for a hearing, as required by MCC 8.90.090 (A), is **NOT** filed within twenty (20) days, at the office of the Adult Care Home Program, 421 S.W. 5th, 97204.

19390 NE Mult
97230

CERTIFIED

P 354 579 024

MAIL



RECEIVED
APR 11 1996
HEARINGS OFFICE

W. W. Skatzen
Code Hearing Office
1120 S.W. 5th Rm. 1017
Portland, OR 97204

EMILY SIMON

620 S.W. FIFTH SUITE 1204
PORTLAND, OREGON 97204
FAX 503 241-2587

ATTORNEY AT LAW
503 241-1553

GEORGE WILLIAMS
ATTORNEY AT LAW

September 6, 1995

BY HAND DELIVERY

Jean DeMaster
Adult Foster Care Home Program
421 SW Fifth Avenue
Room 405
Portland, Oregon 97204-2221

Re: Dianna Roberts and Rosewood Foster Care

Dear Ms. DeMaster:

Pursuant to the agency's administrative rules, we are requesting a formal hearing on the allegations raised in your August 18, 1995 letter to Ms. Roberts. We request a hearing to contest the allegations in the complaints referred to in the agency's August 18th letter.

We hereby waive the ten-day notice requirement under Multnomah County Licensing Ordinance 8.90.090(B).

We are requesting a formal hearing to preserve Ms. Roberts' due process rights; however, we believe this matter can be better resolved without a hearing and are therefore requesting a conference with you, as is also suggested in your August 18, 1995 letter. We have a proposal to present to the agency which we think will resolve this matter to the satisfaction of all concerned parties and would like to meet with you to discuss it as soon as possible. We are available to meet with you during the afternoon of September 8, all day on September 11, the afternoon of September 12, and anytime on September 13 through 15.

Also, I understand that county employees have gone to my client's home and are copying documents. Please be advised that this is unnecessary. If there are any additional documents that you would like to review, please let me know and we will gladly provide them.

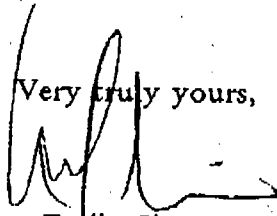
*Attachments to
4/17 fax*

(1)

page 2

Thank you for your kind attention and consideration in this matter. Please do not hesitate to call my office to schedule a meeting at your earliest convenience, or if you have any questions or concerns about this matter.

Very truly yours,



Emily Simon
Attorney at Law

ES:lbw

cc: client

dcmaster.ltr

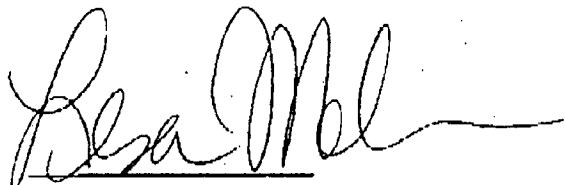
(2)

page 3

CERTIFICATE OF SERVICE

I hereby certify that I have made service of the foregoing letter on Jean DeMaster of the Adult Foster Care Home Program by hand delivery on September 6, 1995, a certified true, exact and full copy thereof addressed to her at her regular office address to-wit:

Jean DeMaster
Adult Foster Care Home Program
421 SW Fifth Avenue
Room 405
Portland, Oregon 97204-2221


LESA WOLMAN

(3)

NEWTON, COTTLE & WESTENHAVER, P.C.

ATTORNEYS AT LAW
4000 KRUSE WAY PLACE, BLDG 1, SUITE 265
LAKE OSWEGO, OREGON 97035
(503) 697-7272

MARK O. COTTLE
GREGORY C. NEWTON*
DIANA A. WESTENHAVER

FAX (503) 636-6995
*ALSO ADMITTED IN CALIFORNIA

September 18, 1995

VIA FACSIMILE 306-5722

Multnomah County
Aging Services/Adult Homes
Gene DeMaster
421 SW 5th Room 405
Portland, OR 97204-2221

RE: *Dianna Roberts @ 19390 N.E. Multnomah Ct.*

Dear Ms. DeMaster:

My above named client requests a hearing on the issues presented in your issuance of a temporary sanction, September 15, 1995 letter, against my client accepting new residents.

My client requests a complete copy of her file. Once it is ready, please contact me and will arrange for payment of the copy costs and have it picked up.

Very truly yours,

Mark O. Cottle

Jean, as of October 5, 1995, I have not received the complete file of Ms. Roberts. I have her public disclosure file, but I need the complete file. When will it be ready to be picked up?

(4)

NEWTON, COTTLE & WESTENHAVER, P.C.

ATTORNEYS AT LAW
4000 KRUSE WAY PLACE, BLDG 1, SUITE 265
LAKE OSWEGO, OREGON 97035
(503) 697-7272

RK O. COTTLE
EGORY C. NEWTON*
NA A. WESTENHAVER

FAX (503) 636-6993
*ALSO ADMITTED IN CALIFORNIA

September 22, 1995

Adult Foster Care Home Program/Multnomah County
Jean DeMaster
421 SW 5th, Room 405
Portland, OR 97204-2221

RE: *Dianna Roberts*

Dear Jean:

I have reviewed the complaints at issue with regards to the administrative sanctions. There are however, two issues that must be resolved prior to addressing the complaints.

1. Rule 890-080-400 Attorney Fees: It is my client's position that your agency is without authority to enforce this provision and said provision violates her Due Process rights as specified by the United States Constitution. I also find no statutory authority for this provision. Quit the opposite, ORS 183.497 allows for my client's attorney fees to be awarded but does not allow your agency's attorney fees to be awarded.

Prior to a hearing, it is demanded that your agency, in writing, state that Rule 890-080-400 is unenforceable. My client views your attempt to collect attorney fees as a means of thwarting ever Provider's Due Process.

Unless we receive written confirmation with regards to this issue within 7 days we will file for an injunction.

2. 890-080-120(k)(1) states "Has acquired substantial complaints pertaining to the health, safety, and welfare of residents." It is my client's position that this provision of the rules is unenforceable as it also violates Due Process.

If a complaint has been lodged against my client and your agency does an investigation and is unable to substantiate the complaint, it is without authority to impose any sanctions. The question then arises, how can you impose "Administrative Sanctions" based upon those prior complaints? Your agency is without authority to consider unsubstantiated complaints when it imposes any Administrative Sanctions. To allow your agency to consider unsubstantiated complaints when it imposes essentially temporary sanctions violates the very core of due process. Also, even if you do impose sanctions for past substantiated complaints, and then years down the road you receive new complaints, which have not been substantiated, and you impose temporary sanctions, you essentially are making a Provider pay twice for the same complaint, and imposing penalties upon a provider for unsubstantiated complaints. Your whole process violates my client's due process rights.

I will now briefly review the complaints. I was not provided a date on which the

(5)

Page 2

September 22, 1995

RE: *Dianna Roberts*

complaints were filed, so I will attempt to reference them for you.

A. This is a handwritten complaint, filed I believe on 9/12/95.

1. A/P threw food at A/V in W #1's AFH

Since we do not know who A/P is for sure, it is our belief that A/P is a resident with mental disabilities. She has been removed from the home, as you know, and therefore poses no threat to anyone in the home.

2. A/P hit AFH caregiver in the face and smacked her hard. Caregiver quit.

Again, it is our belief that A/P is a resident and as you know, the resident has been removed from the home.

B. This is a handwritten complaint.

1. The Complainant called and A/P hung up on Complainant and would not call A/V to the telephone.

This directly involve conduct by my client. The Complainant is another Provider who was unlawfully interfering in my client's business operation. Secondly, A/V has her own telephone and the Complainant has her number. It is the policy of this home that when a resident has h/her own phone, the resident's phone is to be used.

C. This is a handwritten complaint with 8 items.

1. My client nor her staff has ever commented the acts specified in number 1.

2. Both of the A/Vs have mental disabilities, it is not uncommon for either one of them to loose their wallet one day and find it the next.

3. This is true, as we understand the complaint. My client has a strict policy not to allow anyone to confront or argue with a resident.

4. This is not true. It is not the Provider that dictates the doctors of the Residents. It is the Guardian or Resident that makes this decision. The doctor that saw this A/V had been the Resident's doctor for years.

5. This is not true, A/V fell at about 3:00 a.m., my client helped her into bed after determining the resident was not in any pain. It was A/V's habit to sleep until 11:00 a.m. My client left at 9:00 a.m. leaving the residents in the care of a substitute caregiver (I believe the Complainant), when my client returned at approximately 4:00 p.m. she checked on A/V and called 911 as the resident was in pain. The patient went to the Hospital and then to a Nursing care facility where she died several months latter.

6. This is true. However, this resident, for the past 3 years, had been in the habit

(6)

Page 3

September 22, 1995

RE: *Dianna Roberts*

of going to the bathroom without assistance. She fell and was taken to the hospital. As you know, some resident unfortunately fall and bruise themselves.

7. The complainant is attempting to use one persons hypochondria to get even with a past employer. A/V ("Flo") has for the past 6 years complained about chest and side pains. She did it every night. Every doctor's visit she was checked for chest and side pains and nothing was ever found.

8. This is simply untrue.

D. This is a typed document with 7 issues.

This entire complaint relates, as far as we know, to "Flo". It has been documented that Flo has mental disabilities. This complaint was commenced by my client. She request the ombudsmen to visit Flo at her new home, however, it was requested that Tom Glenn not be used, which was agreed upon, and sadly that agency demonstrated its lack of integrity and sent Mr. Glenn who came back with 7 complaints after an interview with a mentally dysfunctional person.

1. This is not true
2. This is not true, yes my client bought sweat suits but returned the money and receipts.
3. This is not true, as far as my client knows, A/V did not have an electric blanket.
4. This is untrue.
5. This is untrue. Actually it is Flo that slaps caregivers and residents.
6. This is untrue.
7. The dog weighs over 20lbs and my client is unable to hold it. The cat is not allowed on the counter top.

E. This is a typed complaint with three issues. They involve Mt Hood Medical Center.

1. A/V falls a lot and my client desires praise for admitting her to the hospital when this happens.
2. The complaintant does not make sense. On the one hand, A/V is going to the hospital "numerous time" and the provider "continued to bring A/V there [hospital]," but the doctor does not know about the frequency of the occurrence. Which is it, we take the resident to the hospital to much or not enough?

3. This is silly. My client is not in control of where the ambulance takes a patient. Check with the EMS board of your county, there are strict rules on transportation. Secondly, it is my client's understanding the Mt. Hood Medical Center is an acceptable provider for this A/V's HMO.

F. I did not receive a copy of the last complaint for some reason, my client told me what it consists of and I believe part of a police report.

Again this involves Flo.

(7)

Page 4

September 22, 1995

RE: *Dianna Roberts*

1. A/P was withholding food and not taking care of A/V. This is untrue.
2. My client called 911 because Flo was being abusive and combative. This is true.
3. My client refuses to accept Flo into her home. This is true. Flo is a potential danger to the rest of the residents.

Although I am not sure who each A/V and A/P are and it is very difficult to respond to allegation when you do not know who the victim or perpetrator are, if my client is correct, I am shock that your agency suspended her admissions based upon these complaints.

The vast majority of the complaints regard Flo a person suffering mental difficulties. Your agency is using a confused woman to violate the law. My client will not stand for it. Flo cannot remember individuals she is associated with on a regular basis, let alone be trusted to remember past events. She is abusive, combative and at best a very difficult individual. Should this proceed, I will of course be forced to take Flo's deposition, which would be a sad state of affairs for this situation. It is my understanding that Flo does not have the capability to even act as a witness as she is mentally incompetent.

Each of the complaints have sever credibility problems. As professionals, your agency should be able to determine the weight given to complaints when they come in and contradict themselves, are derived from past employees who incriminate themselves in the complaint or are derived from a woman who is mentally dysfunctional and make such wild accusations (41 decree homes-have your investigator check the thermostat, I think you will find that it does not go that low), that the credibility of the whole complaint is called into question. It seems that your agency is missing one very clear point in being a regulatory agency, you do have discretion to give weight to complaints, just like a police officer has discretion to give credit to complaints.

These complaints just do not add up. On the one hand there is complaints that my client does not call 911 enough and on the other to much. She is even being accused of freezing the residents. 27 of your people have been in my client's home, they know what the temperature is. Enough is enough.

I also understand that you are now requesting my client's last 7 years of records. By what authority is this request made and for what purpose? Your agency's conduct is bordering on harassment.

Please reconsider your sanctions, your agency's conduct violates the law and unless the sanctions are lifted my client will file for injunctive relief and pursuant to the law, my client entitled to attorney fees if she prevails.

Very truly yours,


Mark O. Cottle

cc: Jim McConnell

(8)

NEWTON, COTTLE & WESTENHAVER, P.C.

ATTORNEYS AT LAW
4000 KRUSE WAY PLACE, BLDG 1, SUITE 265
LAKE OSWEGO, OREGON 97035
(503) 697-7272

M. O. COTTLE
ORY C. NEWTON*
A. WESTENHAVER

FAX (503) 636-6995
*ALSO ADMITTED IN CALIFORNIA

October 31, 1995

Adult Care Home Program
Mary M. Fassell
421 SW Fifth St., Rm 405
Portland, OR 97204

RE: *Diana Roberts*

Dear Ms. Fassell:

My client, Ms. Roberts, requests a hearing on the fine you have imposed in your October 20, 1995 letter. The reasons for the hearing are the issues raised in your letter.

Specifically, Ms. Roberts had the records to be reviewed and her cleaning person, without authority took the records and discarded them. The records no longer exists. Therefore, she cannot produce something that she does not have.

Please call so we can discuss this matter. I do have a letter from the cleaning person to verify that she did dispose of the records and said letter is enclosed.

Very truly yours,


Mark O. Cottle

cc: Client

(9)

NEWTON, COTTLE & WESTENHAVER, P.C.

ATTORNEYS AT LAW
4000 KRUSE WAY PLACE, BLDG 1, SUITE 265
LAKE OSWEGO, OREGON 97035
(503) 697-7272

MARK O. COTTLE
GREGORY C. NEWTON
DIANNA WESTENHAVER

FAX (503) 636-6995
*ALSO ADMITTED IN CALIFORNIA

October 20, 1995

Multnomah County
Aging Services/Adult Homes
Gene DeMaster
421 SW 5th Room 405
Portland, OR 97204-2221

RE: *Dianna Roberts @ 19390 N.E. Multnomah Ct.*

Dear Ms. DeMaster:

My above named client requests a hearing on the issues presented in your issuance of your last temporary sanction against my client accepting new residents. My client also would like an informal conference in order to resolve the problems. Lets schedule that right away.

Thank you for your time.

Very truly yours,

Mark O. Cottle

(10)

JAMES C. NIEDERMAYER
ATTORNEY AT LAW
2100 S.E. HELMONT STREET
PORTLAND, OREGON 97214

PHONE (503) 233-8550
FAX (503) 233-8560

P.O. BOX 4078
PORTLAND, OREGON 97208

October 26, 1995

HAND DELIVERY

Supervisor
Adult Care Home Program
Aging Services Division
Multnomah County
421 S.W. Fifth Ave., Room 405
Portland, OR 97204

Re: Dianna Roberts
Communication Dated 10/13/95 from Jean DeMaster
Concerning Suspension (Copy Enclosed)

Dear Supervisor:

In accordance with the authorization below, request
is made for a conference as well as a hearing in regard
to the above matter.

Very truly yours,

James C. Niedermeyer

JCN:mc
Encl.
cc w/encl.: Catherine Gaetjens, County Counsel
IT IS SO AUTHORIZED.

Dianna Roberts

(11)

JAMES C. NIEDERMAYER

ATTORNEY AT LAW
2100 S.E. BELMONT STREET
PORTLAND, OREGON 97214

PHONE (503) 233-8530
FAX (503) 233-8560

P.O. BOX 4078
PORTLAND, OREGON 97203

October 26, 1995

HAND DELIVERY

Supervisor
Adult Care Home Program
Aging Services Division
Multnomah County
421 S.W. Fifth Ave., Room 405
Portland, OR 97204

Re: Dianna Roberts
Communication DATED 10/20/95 from Mary Fassell
Concerning Fine (Copy Enclosed)

Dear Supervisor:

In accordance with the authorization below, request
is made for a hearing in regard to the above matter.

Very truly yours,

James C. Niedermeyer

JCN:mc

Encl.

cc w/encl.: Catherine Gaeltjens, County Counsel

IT IS SO AUTHORIZED.

Dianna Roberts

(12)

JAMES C. NIEDERMAYER

ATTORNEY AT LAW
2100 S.E. BELMONT STREET
PORTLAND, OREGON 97214

PHONE (503) 233-8550
FAX (503) 233-8560

P.O. BOX 4078
PORTLAND, OREGON 97208

November 17, 1995

HAND DELIVERY

Supervisor
Adult Care Home Program
Aging Services Division
Multnomah County
421 S.W. Fifth Ave., Room 405
Portland, OR 97204

Re: Dianna Roberts
Communication Dated 11/09/95 from Jean DeMaster
(Copy Enclosed)

Dear Supervisor:

In accordance with the authorization below, request
is made for a conference as well as a hearing in regard
to the above matter.

Very truly yours,

James C. Niedermeyer

JCN:mc
Encl.
cc w/encl.: Catherine Gaetjens, County Counsel

APPROVED:

Dianna Roberts

(13)

FAX COVER LETTER

DATE 4/17/96

TO: W. W. SHATZKE FAX 823-4347
PHONE _____

FROM: DIANNA ROBERTS - FAX 1503/661-4763 (On 8:00 a.m. to 5:00 p.m.)
PHONE 1503/666-9121

(IF YOU HAVE A PROBLEM SENDING
THE FAX OR ARE TRYING TO SEND ONE
AFTER 5:00 P.M., PLEASE CALL 666-9191
AS I OFTEN TURN IT OFF AT 5:00 P.M.)

PAGES 16 INCLUDING COVER LETTER

COMMENTS _____

***** ERROR TX REPORT *****

TX FUNCTION WAS NOT COMPLETED

TX/RX NO.	1247	
CONNECTION TEL	96614763	
CONNECTION ID		
START TIME	04/16 15:31	
USAGE TIME	00'00	
PAGES	0	
RESULT	NG	
	0	#018

*Ruth is still
didn't go through
6-16-96 4:00
Called Diana-
Said she got
the fax
Ruth*

04/16/96 15:13

5038234347

HEARINGS

P.001

***** ACTIVITY REPORT *****

TRANSMISSION OK

TX/RX NO.	1245
CONNECTION TEL	93065722
CONNECTION ID	
START TIME	04/16 15:10
USAGE TIME	03'08
PAGES	4
RESULT	OK

Mary Fassel

8K800 REDIFORM

RECEIPTDate April 1 19 96

3599

Received From Diana RobertsAddress 19390 NE Multnomah CourtDollars \$ 35⁰⁰For tax copies - 161035 (7/1/95 - 3/8-29/96)

ACCOUNT			HOW PAID		
AMT. OF ACCOUNT			CASH	<u>35⁰⁰</u>	
AMT. PAID			CHECK		
BALANCE DUE			MONEY ORDER		

By D. Broberg

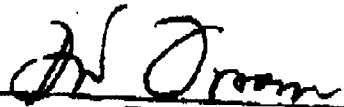
FAX: 292-6435

From: Dr. Donald Froom
9155 S.W. Barnes Rd., Suite 534
Portland, OR 97225

Dear Doctor:

RE: HELEN FLANAGAN


Mrs. Flanagan was transferred to my Adult Foster Care Home this date. She indicates that she is capable of self-medicating. If this is correct, would you please indicate below with your signature.


Dr. Donald Froom

1/25/96
Date

Respectfully,

To: ROSEWOOD CARE, INC.


Dianna Roberts
Owner/Manager
19390 N.E. Multnomah Ct.
Portland, OR 97230
(Ph: 666-9121)

Fax: 669-5325

RECEIVED

MAR 29 1996

HEARINGS OFFICE

DONALD W. FROMM, M.D. P.C.
ANTHONY C. DE MORY, M.D.
Physicians

Diplomates, American Boards of
Internal Medicine
Nephrology

Hypertension and Kidney Disease

RECEIVED

MAR 19 1996

9155 S.W. Barnes Road, Suite 534
Portland, Oregon 97225
503/292-7721
FAX 503/292-6455

March 9, 1996

To whom it may concern:

Helen Flanagan is a diabetic patient who has chronic renal failure. Her dietary needs are very specific and an improper diet can lead to life-threatening problems.

Mrs. Flanagan was placed by the St. Vincent social-worker in an assisted-living home, where she was assured her dietary needs would be met.

Mrs. Flanagan did not receive a special renal diet and was told to eat what she was served. She also did not have 24-hour care, as promised.

In our opinion this was not an appropriate or safe living situation and other patients with special needs should not be placed in this home.



Donald W. Fromm, M.D.

RECEIVED

MAR 29 1996

HEARINGS OFFICE

March 21, 1996

FAX 292-6455
Ph: 292-7721

Donald W. Froom, M.D.

OFFICES OF:
Donald W. Froom, M.D. P.C.
Anthony C. DeMory, M.D.
9155 S.W. Barnes Road, Suite 534
Portland, OR 97225

Dear Dr. Froom:

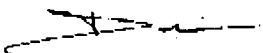
RE: YOUR LETTER OF MARCH 9, 1996 - HELEN FLANAGAN

I was just handed your letter of March 9th. Mr. Froom, I was well aware of Mrs. Flanagan's dietary needs, while she was in my Adult Foster Care Home -- not an assisted-living home.

I question how you can testify to what was said, what was served, whether anyone was on duty 24-hours or 8 hours, OR whether my home was 'safe'. I consider these statements in your letter libelous and demand an apology and retraction, **IMMEDIATELY!!!**

Regards,

ROSEWOOD CARE, INC. (Est. 1985)


Dianna J. Roberts
Owner/Manger

19390 N.E. Multnomah Ct.
Portland, OR 97230
FAX 661-4763
Ph: 666-9121

cc: Cindy Peetz-Yochim, R.N.

RECEIVED
MAR 29 1996
HEARINGS OFFICE

Original Complaint

Complaint:

Allegation #1

Denying access to residents

AP sent a letter to WT #1 telling ~~him/her~~ ^{he/she} could no longer visit AV at the ACH -

Allegation #2

lying - AP told WT #1 ~~that~~ in the letter that WT #1 supervisor had requested ~~that~~ ^{he/she} discontinue visit to the AV at ACH.

Allegation #3

Retaliation -

AP accused AV and WT #1 of making a complaint to the ACHP regarding AP's dog.
AP called WT #2 and accused WT #1 and AV of making a complaint.

FRM-1 4/28/95

RECEIVED

MAR 29 1996

HEARINGS OFFICE

Allegation #4

neglect

Neglect

- AV could not get help one night when he/she thought she/he was having a heart attack. AP looks her/his bedroom door and doesn't respond.
- Wt # 2 stated that a resident recently broke an arm at night and got no help until morning.
- Wt # 2 attempted to visit one evening 8:40 PM. No one answered, she don't - called on cell phone but only got AP message recorded. Wt # 2 looked in the windows of the home observed AP (scully engaged) in his/her quarters. Wt # 2 only entered the home after knocking at AV's window. Wt # 2 entered the AFH and spent time w AV. AV (never) knew Wt # 2 was in the home. Wt # 2 found AV had no water - gets thirsty because of medical condition & meds. Wt # 2 took care of AV needs.
- AV is diabetic and is not being served proper diet. AFH advertised/states they provide appropriate diet and snacks but according to AV & Wt # 2 it is not being provided.
- Wt # 2 states AV thinks other residents are being starved.

Allegation #5

Residents rights - privacy violated - personal letters. AP was not given the Wt # 1 address. Suspect that AP read a letter sent to AV by Wt # 1 without AV permission because of references in the Wt # 1 letter (copy) ~~and knowledge of~~ AP's letter denying access to AV in the future seemed to be based on this letter and access to Wt # 1 and home address.

RECEIVED

MAR 29 1996

HEARINGS OFFICE

Perpetrator(s):

Operator: Diana Robert

Phone:

Address: 19390 NE Multnomah Court Portland

Complaint:

** (2nd original allegation complaint)*

Unsanitary Conditions

ACH has an elderly dog who is blind & has difficulty walking. Urinates on the carpet and has feces emitted on his bottom.

Dog and cats in the home appear to have mange.

RECEIVED

MAR 29 1996

HEARINGS OFFICE

2-20-1996 2:16PM FROM

P. 1



MULTNOMAH COUNTY OREGON

AGING SERVICES DIVISION (503) 248-3646
 ADULT CARE HOME PROGRAM (503) 248-3000
 FAX: (503) 308-5722
 421 SW 5TH, ROOM 405
 PORTLAND, OR 97204-2221

BOARD OF COUNTY COMMISSIONERS
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 DAN SALIZMAN • DISTRICT 1 COMMISSIONER
 GARY HANSEN • DISTRICT 2 COMMISSIONER
 TANYA COLLIER • DISTRICT 3 COMMISSIONER
 SHARRON KELLEY • DISTRICT 4 COMMISSIONER

FAX COVER SHEET

DELIVER TO:	Individual: <u>Dianne Roberts</u>
FAX#: <u>661-4763</u>	Department: <u>Rosewood Care</u>
Delivery Instructions:	

RECEIVED FROM:	Individual: <u>Mary Bengel</u>
	Department: <u>ACHP</u>
Desk Phone: <u>248-3600</u>	Fax#: _____

Date: <u>2/26/96</u>	Time: <u>1:30 PM</u>
----------------------	----------------------

DELIVER AS SOON AS POSSIBLE

Notes or messages:	<u>2nd response to your 2/23/96 request - Copy of letter mailed 2/26/96</u>
--------------------	---

Number of pages sent (including cover sheet) _____

RECEIVED

MAR 29 1996

HEARINGS OFFICE

AN EQUAL OPPORTUNITY EMPLOYER

03/29/96 08:10

TX/RX NO.1123

P.006

**MULTNOMAH COUNTY OREGON**

AGING SERVICES DIVISION (503) 248-3646
ADULT CARE HOME PROGRAM (503) 248-3000
FAX: (503) 306-5722
421 SW 5TH, ROOM 405
PORTLAND, OR 97204-2221

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN • CHAIR OF THE BOARD
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GARY HANSEN • DISTRICT 2 COMMISSIONER
TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

February 6, 1996

Dianna Roberts
19390 NE Multnomah Court
Portland, Oregon 97230

Dear Ms. Roberts:

In response to your request the Adult Care Home Program records show two complaints regarding your adult foster home at 19390 NE Multnomah Court in January 1996. As the complaint specialist I took both complaints. They are dated 01/22/96 log # A960109 and 01/30/96 log # A960112. The complaint form currently being used does not indicated how the complaint was received.

Respectfully,

Mary Gingell
Complaint Specialist

RECEIVED

MAR 29 1996

HEARINGS OFFICE

AN EQUAL OPPORTUNITY EMPLOYER

FEB 5 1996

February 3, 1996

Mary Gingell, Complaint Specialists
Aging Services Division
421 S.W. 5th, Rm. 405
Portland, OR 97204

Dear Mary:

In the last 2 weeks there have been 2 complaints investigated at my home. Although I have copies of these complaints, normally, these copies have a log number. They, also, indicate how the complaint was received (phone/letter), who took the complaint, and a DATE!

Would you please provide me with this information on these complaints as soon as possible?

Thanks!

ROSEWOOD CARE, INC.



Dianna Roberts
Owner/Manager

RECEIVED

MAR 29 1996

HEARINGS OFFICE

FAX COVER LETTER

DATE 3/29/96

TO: Wm Slatyer FAX 823-4347
PHONE _____

FROM: DIANNA ROBERTS - FAX 1503/661-4763 (On 8:00 a.m. to 5:00 p.m.)
PHONE 1503/666-9121
(IF YOU HAVE A PROBLEM SENDING
THE FAX OR ARE TRYING TO SEND ONE
AFTER 5:00 P.M., PLEASE CALL 666-9191
AS I OFTEN TURN IT OFF AT 5:00 P.M.)

PAGES _____ INCLUDING COVER LETTER

COMMENTS Ruth or Darla, please make
sure gets this ASAP this AM.
Thanks!

RECEIVED

MAR 29 1996

HEARINGS OFFICE



MULTNOMAH COUNTY OREGON

AGING SERVICES DIVISION
AREA AGENCY ON AGING
421 S.W. 5TH, 3RD FLOOR
PORTLAND, OREGON 97204
SENIOR HELPLINE: (503) 248-3646 ADMINISTRATION: 248-3620
TDD: 248-3683 FAX: 248-3656

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN - CHAIR OF THE BOARD
DAN SALTZMAN - DISTRICT 1 COMMISSIONER
GARY HANSEN - DISTRICT 2 COMMISSIONER
IANYA COLLIER - DISTRICT 3 COMMISSIONER
SHARRON KELLEY - DISTRICT 4 COMMISSIONER

October 17, 1995

Dianna J. Roberts, Owner
Rosewood Care Inc.
19390 NE Multnomah Ct.
Portland, OR 97230

Dear Ms. Roberts:

I am responding to your letter to me dated October 13, 1995. ASD staff will provide you with copies of the material in your file within a reasonable amount of time, and after screening to assure compliance with laws on confidentiality. I understand that the attorneys are working on timelines.

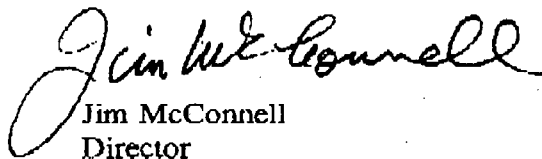
After our last conversation, I had arranged for you to get the copies you requested. I understand that Mr. Cottle chose to come to the office to get them.

Mary Fassell is a member of the staff at ASD, but is not a staff attorney.

ASD reserves the right to charge reasonable fees for large amounts of copying requested by the public.

The action to suspend admissions to your home was not taken lightly. The staff at the ACH program are very concerned about the welfare of residents in your home and have acted accordingly. I know that they take great care not to violate anyone's rights as they move to protect residents.

Sincerely,


Jim McConnell
Director

RECEIVED
MAR 27 1996
HEARINGS OFFICE

AN EQUAL OPPORTUNITY EMPLOYER

#761035

CITY OF PORTLAND - CODE HEARINGS OFFICE

R.O.A. PROVIDERS ASSC.2320 N.E. 185th DR.
PORTLAND, OR 97230
PH. 261-1429

Dear sirs;

In regards to the case against Diane Roberts, caseno. 154001 Her Attorney Mr. Cottle has resigned from her case because she can not afford to pay him a requested amount of monies he requiered to continue. Therefor she has requested to have the R.O.A. Providers Assc. represent her in the hearing. We have excepted Ms. Roberts case. Beings that her licsence is at stake here it is imparitive that we have enough time to investigate on her behalf. The hearing is set for 3/28/96 We ask that you give us at least another 60 day extention if not more. Please inform us of your decision and a new hearing date. Thank you for your time and consideration.

Respectfully;

Terry Lee
Ass. Director

=== COVER PAGE ===

TO: _____

FAX: 8234347

FROM: ROCK DE AGES ASSC

FAX: 2611429

TEL: 2611429

COMMENT: PLEASE CALL

March 8, 1996

CERTIFIED RRR P474 616 169

(Signed for on 3-11-96)

City of Portland
Code Hearings Office
1120 S.W. 5th. Ave., Rm 1017
Portland, OR 97204

RE: APPEAL HEARING #154001
MARCH 14, 1996

REQUEST FOR CONTINUANCE

Pursuant to the above scheduled hearing, I hereby request a 60-day continuance due to the complexity of the issues and in lieu of the fact that Mary Fassell, Multnomah County Adult Care Home Representative, has not provided me with the necessary records as noted in my previous letter of January 12, 1996 to proceed with preparation for this appeal. (Please reference October 17, 1995 letter from Jim McConnell.)

Respectfully,

ROSEWOOD CARE, INC.

Dianna J. Roberts
Owner/Manager

Enclosure: (1)

cc: Katie Gaetjins, Sr. Asst. County Counsel, Multnomah County
Mary Fassell, Sanctions Specialists, Multnomah County - Aging Services Division

#161035

March 8, 1996

City of Portland
Code Hearings O
1120 S.W. 5th. A
Portland, OR 9

Is your RETURN ADDRESS completed on the reverse side?

SEN 1:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

City of Portland
Code Hearings Office
1120 S.W. 5th, Rm 1017
P.O. 97204

4a. Article Number

474 616 169

4b. Service Type

- ☐ Registered ☒ Certified
☐ Express Mail ☐ Insured
☒ Return Receipt for Merchandise ☐ COD

7. Date of Delivery

11 MAR 1996

5. Received By: (Print Name)

6. Signature: (Addressee or Agent)

X

8. Addressee's Address (Only if requested and fee is paid)

PS Form 3811, December 1994

Domestic Return Receipt

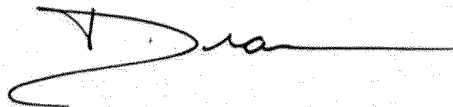
Thank you for using Return Receipt Service.

REQUEST FOR CONTINUANCE

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Respectfully,

ROSEWOOD CARE, INC.



Dianna J. Roberts
Owner/Manager

RECEIVED

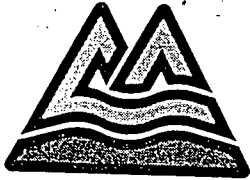
MAR 14 1996

HEARINGS OFFICE

Enclosure: (1)

cc: Katie Gaetjins, Sr. Asst. County Counsel, Multnomah County
Mary Fassell, Sanctions Specialists, Multnomah County - Aging Services Division

Copy made from
Dianna J. Roberts - Certified L.H.



MULTNOMAH COUNTY OREGON

AGING SERVICES DIVISION
AREA AGENCY ON AGING
421 S.W. 5TH, 3RD FLOOR
PORTLAND, OREGON 97204
SENIOR HELPLINE: (503) 248-3646 ADMINISTRATION: 248-3620
TDD: 248-3683 FAX: 248-3656

BOARD OF COUNTY COMMISSIONERS
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DAN SALTZMAN • DISTRICT 1 COMMISSIONER
GARY HANSEN • DISTRICT 2 COMMISSIONER
TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

October 17, 1995

Dianna J. Roberts, Owner
Rosewood Care Inc.
19390 NE Multnomah Ct.
Portland, OR 97230

Dear Ms. Roberts:

I am responding to your letter to me dated October 13, 1995. ASD staff will provide you with copies of the material in your file within a reasonable amount of time and after screening to assure compliance with laws on confidentiality. I understand that the attorneys are working on timelines.

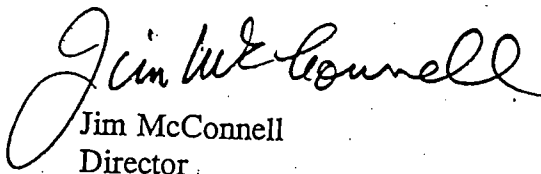
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The action to suspend admissions to your home was not taken lightly. The staff at the ACH program are very concerned about the welfare of residents in your home and have acted accordingly. I know that they take great care not to violate anyone's rights as they move to protect residents.

Sincerely,


Jim McConnell
Director

RECEIVED
MAR 14 1996
HEARINGS OFFICE

March 14, 1996

#161035

City of Portland
Code Hearings Office
1120 S.W. 5th. Ave., Rm. 1017
Portland, OR 97204

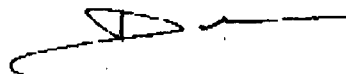
RE: HEARING # 154001

SCHEDULED: TODAY - 1:30 P.M.

PLEASE ADVISE VIA FAX 661-4763 THIS MORNING, IF SUBJECT HEARING IS ON
THE CALENDAR FOR 1:30 P.M. TODAY, OR IF THE REQUESTED CONTINUANCE HAS
BEEN GRANTED.

RESPECTFULLY,

ROSEWOOD CARE, INC.



DIANNA J. ROBERTS
OWNER/MANAGER

**MULTN**

AGING SERVICES DIVISION (503) 248-3646
 ADULT CARE HOME PROGRAM (503) 248-3000
 FAX: (503) 306-5722
 421 SW 5TH, ROOM 405
 PORTLAND, OR 97204-2221

Post-it® Fax Note 7671		Date 1/16/96	# of pages 3
To Katie Gaetjens	From Mary Fassell		
Co./Dept. County Counsel	Co. ACHP		
Phone #	Phone # X 2624		
Fax # 3377	Fax #		

DAN SALTZMAN - DISTRICT 1 COMMISSIONER
 GARY HANSEN - DISTRICT 2 COMMISSIONER
 TANYA COLLIER - DISTRICT 3 COMMISSIONER
 SHARRON KELLEY - DISTRICT 4 COMMISSIONER

January 12, 1996

Mr. William W. Shatzer
 Hearings Officer
 Portland Building
 1120 S.W. 5th, Room 1017
 Portland, Oregon 97204
 B106/1017

RECEIVED**JAN 17 1996****HEARINGS OFFICE**

Dear Mr. Shatzer:

This office has received a request for a hearing from Ms. Diana Roberts. The Adult Care Home Program revoked Ms. Robert's adult care home license. She is appealing our decision. A copy of our letter suspending her license and her letter requesting a hearing are enclosed.

As is required by MCC 8.90.090, and as a designee of the Director, I am designating you as Hearings Officer in this matter and requesting you to set the time and place for the hearing.

A hearing with Diana Roberts regarding suspension of admissions to her adult care home is already scheduled with you. The case number is 154001.

Ms. Roberts verbally indicated to you that she wanted to set over the hearing on the revocation of her license for four months but the Adult Care Home Program would like this hearing in a timely manner. We have asked Ms. Roberts for her estimate of time needed for this hearing but have not heard from her. We estimate that to assure enough time the hearing should be scheduled for three days. We will not be available on the second Friday of the month.

Ms. Roberts is not represented by Mr. Niedermeyer any longer. To our knowledge she is not represented by any attorney. The County will be represented by Katie Gaetjens, Multnomah County Counsel.

Sincerely,

Mary M. Fassell, Sanctions Specialist
 Multnomah County Adult Care Home Program

Enclosures

**MULTNOMAH COUNTY OREGON**

AGING SERVICES DIVISION (503) 248-2646
ADULT CARE HOME PROGRAM (503) 248-3000
FAX: (503) 306-5722
421 SW 5TH, ROOM 405
PORTLAND, OR 97204-2221

BOARD OF COUNTY COMMISSIONERS
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GARY HANSEN • DISTRICT 2 COMMISSIONER
TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

January 5, 1996

Ms. Dianna Roberts
19390 N.E. Multnomah Court
Portland, Oregon 97230

RECEIVED

JAN 17 1996

HEARINGS OFFICE

Dear Ms. Roberts:

I have received your December 15th letter requesting a hearing on the November 28, 1995 revocation of your adult care home license. Your letter does not indicate whether you want a conference on the revocation, but pursuant to MCAR 890-080-310 we want to schedule an administrative conference with you on this matter.

As your letter indicates, your attorney, James Niedermeyer requested conferences on the earlier suspensions of admission. With his agreement, a conference on the suspensions was postponed until the Department took action on the complaint underlying the suspension. He agreed that at that time you and he would decide whether to seek a consolidated conference and hearing.

Mr. Niedermeyer informed our attorney on December 18th that he is no longer representing you, and that to the best of his knowledge you are no longer represented by an attorney. If this information is not correct please notify us as soon as possible.

At this time, we need your response to the following questions:

1. Do you want a separate conference on the suspension of admissions dated August 18, September 15, October 14 and November 11, 1995? If a conference is held on these suspension, the only issue will be whether the Adult Care Home Program had received numerous complaints and therefore had a basis for taking immediate action.

2. Do you want a hearing on the suspensions of admission separate from the hearing on revocation of your license? Again, the issue at the suspension hearing would be whether the Adult Care Home Program's decision to suspend new admissions was supported by the receipt of numerous complaints.

3. Do you want to consolidate the suspension and revocation conferences and hearings? Because both the suspension and the revocation are based on essentially the same complaints and

evidence, it appears that consolidating the proceedings would be a more effective use of everyone's time. If you do want to consolidate these proceedings, the January 18, 1996, hearing date will not be adequate. Given the numerous complaints and witnesses involved, a longer hearing, scheduled well in advance, will be necessary.

In any case, the hearing office notified us that you verbally requested a four month set over of the January 18th hearing. They indicated they told you the hearing officer was not willing to reschedule a hearing unless he received a request from you in writing. If you make such a request in writing we agree to cancel the January 18th hearing so we can discuss setting a time and length and issues of the hearing, but we do not agree to a lengthy setover.

We would also like you to write us the specific violations with which you disagree so that we can begin to narrow the issues for hearing. We will also need an estimate of how much time you will need to present your objections before we can determine how long a hearing to request. Both of these matters could be discussed in a conference before the hearing is scheduled.

Please let me know as soon as possible whether you want to consolidate these proceedings, or whether you want to attempt to handle them separately. Please provide me as well with three dates in the next two weeks when you could be available for an administrative conference. We will then contact you with a firm date for the conference. Once we have met together, we can arrange a hearing schedule that fits the situation. If it is not possible to meet within the next two weeks we will set a hearing date without your involvement.

Sincerely,

Mary M. Fassell

Mary M. Fassell, Sanctions Specialist
Multnomah County Adult Care Home Program

c: Jean DeMaster
Katie Gaetjens, Multnomah County Counsel

TAPE LOG

3/28/96

3 TAPES

3/29/96

4 TAPES

4/5/96

2 TAPES

4/19/96

1 TAPE

4/25/96

1 TAPE

5/9/96

1 TAPE

5/17/96

4 TAPES

5/21/96

2 TAPES

Diana Roberts Timeline

2/7/86 Complaint, no conclusion
8/19/86 Complaint, substantiated not following doctor's orders
6/15/87 Complaint, refused to provide treatment needed, unclear conclusion
3/6/92 Complaint, missing med (morphine): Unable to substantiate
6/5/92 administrative conference with program manager re operator going to bed by 7pm, residents have to put themselves to bed, staffing needs, storage and labeling of medications, call bells not available in rooms, night care not encouraged, house rules regarding visiting hours. Operator's response: is available for night care, hired live-in staff, re-did house rules, expanded visiting hours.
3/22/93 complaint, no night care provided: substantiated
6/93 license renewal visit, issues: too restrictive bedtime, high turnover in caregivers, advertising on business card as Class III. Licensing agent requested operator post evening visiting hours. Operator refuses--says it's not required in the rules. ACHP letter sent requiring posting by Aug, 1993.
9/93 administrative conference with program manager re high staff turnover, need to treat caregivers better. Operator promises to do better.
2/1/94 complaint from caregiver: operator borrowed money from resident--substantiated; operator intervenes in resident's personal mail, listens in on resident's phone calls: unable to substantiate; operator does not allow residents to pray, did not allow residents visitors, wore resident's clothing without permission: unsubstantiated.
2/1/94 Program manager asks operator for updated criminal record, operator refuses, then states record will be dismissed once she completes her community service.
6/22/95 Administrative conference with program manager at operator's request, re complaint substantiated that operator borrowed money from resident.
6/29/95 2nd Administrative conference with program manager at operator's request re same issue as above. Operator misrepresented that someone else wanted the conference. Operator warned about misrepresentations and dealing honestly with program.
7/19/95 Letter from program manager re issues of 2 administrative conferences, need to deal honestly with everyone
7/20 to 8/17/95 5 complaints filed, from different complainants, alleging abuse, neglect, lack of prompt medical treatment, financial exploitation
8/18/95 Letter to operator suspending admissions for 30 days pending investigation of complaints
9/6/95 Operator's attorney requests hearing and conference on suspension, agreement to wait until investigation completed
9/12/95 Another complaint filed: lack of supervision, food fight
9/15/95 Admissions suspended another 30 days pending completion of investigations including newest complaint
9/18/95 Operator's attorney requests hearing re suspension, agreement to wait until investigation completed, operator requests copy of all records available to her



10/13/95 Admissions suspended another 30 days: still investigating,
operator not allowing access to records
10/17/95 ACHP staff deliver part of copies of operator's file to
operator, staff to pick up foster home records, operator says
records are lost
10/20/95 Fine for not having records available
10/19/95 Letter from program manager: rest of copies of public file ready
10/31/95 Operator's attorney requests hearing on fine
11/9/95 Admissions suspended another 30 days: still investigating,
operator uncooperative
11/17/95 Operator's attorney requests hearing and conference
11/28/95 License revoked
12/15/95 Operator requests hearing on revocation
1/5/96 Letter from ACHP request confirmation re consolidation
suspension and revocation hearings and conferences.
1/9/96 Letter from operator: cannot come to conference until have
attorney
1/19/96 Hearing set for March 14, 1996 and following
1/30/96 Complaint re neglect, lack of night care, not following
resident's renal diet
2/12/96 Admissions suspended to home/revocation amended
3/4/96 Hearing rescheduled for 3/28 and 3/29/96



FILE COPY
MULTNOMAH COUNTY OREGON

CD

AGING SERVICES DIVISION (503) 248-3646
ADULT CARE HOME PROGRAM (503) 248-3000
421 SW 5TH, ROOM 405
PORTLAND, OR 97204-2221

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN • CHAIR OF THE BOARD
DAN SALTZMAN • DISTRICT 1 COMMISSIONER
GARY HANSEN • DISTRICT 2 COMMISSIONER
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July 19, 1995

Dianna Roberts
19390 N.E. Multnomah Court
Portland, Oregon 97230

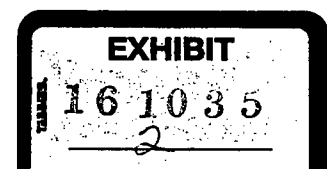
Dear Dianna:

In our conferences of June 22, 1995 and June 29, 1995 you asked me to reconsider the conclusion of the protective service report which substantiated that you borrowed a small amount money from at least one resident in your home. I considered carefully what everyone said at the conferences and want to reiterate that the substantiation for this complaint does not depend on the resident. Annette Potts substantiated the complaint based on information which she believes you supplied.

You insisted that you never said that you borrowed money from residents. Yet Annette Potts remembered that you said to her that you "sometimes borrowed \$5 to \$10 from residents but that you always paid it back." Carole Isaman did not remember exactly what you said but she recalled thinking at the time when she heard your statement to Annette that you probably did not know that borrowing even small amounts of money was a rule violation. Carole's thoughts provide additional credibility for Annette's statement.

While you do not believe that you made the statement, Annette and Carole believe that you made such a statement. Based on this information, I think there is no reason to change the report or open the issue to more investigation. As a result of this substantiated complaint, you received a warning and that warning will remain in place.

As we told you in our conference, we have serious concerns about mis-communication between you and many other persons. The above issue is not the only time where you have either changed what you or someone else said, or misled someone, to your own advantage. The examples we discussed in the conference are:



1. You called me and told me that Tom Glenn wanted a second administrative conference to be scheduled because both you and he felt there was additional information which should be considered regarding the issue of whether you borrowed money from a resident. When I spoke with Tom after the phone call from you, he said that he did not tell you he wanted to schedule a second administrative conference to talk to me. Tom said this again in our conference. He added that you had asked him about meeting with me and that he had merely told you he was willing to come if such a meeting should occur. He said he did not want to have the meeting called as you had told me. If you had told me that you wanted another conference to clear your record, I would not have scheduled the conference because we had already had one and that was sufficient. You changed what Tom said so that I would think he wanted the second conference and would arrange a second conference, which I did.

2. On June 27th, you told John Chabin that Flonnie called you saying that she wanted to move back to your home. Yet John says that when he spoke with Flonnie, she said that she did not want to come back to your home. Both Flonnie and Florica Halmagean say that you have called Flonnie numerous times asking or telling Flonnie she has to come back. Flonnie was very upset by your phone calls. I indicated to you in our conference that it was necessary that you stop communicating with Flonnie because it was putting undue pressure on this elderly woman. I told you that I was concerned that you were harassing Flonnie and that if you communicated with Flonnie again that it could be considered as harassment.

I learned last week that you called the State Ombudsman Office and requested that an Ombudsman visit Flonnie and discuss these issues with her. While the people from the Ombudsman's Office are very sensitive and very thoughtful, their visit (which was made solely at your request) probably was upsetting to Flonnie and will add to the pressure on her.

3. Flonnie's doctor called Jim McConnell and said she heard Jim wanted her to call. He never asked that she call him. He had no idea why she was calling. You admitted you called the doctor's office and left a message to have doctor call Jim. According to Jim McConnell, the doctor understood that it was Jim who wanted her to call.

4. Tom also said that on a previous occasion, you and he had another mis-communication which, he thought, resulted in his integrity being called into question. He was still displeased about this incident. The incident was that Tom had told you that Peggy Hulse was someone's guardian and that it was up to Peggy what was to be done in a certain situation. Later Tom heard from Peggy that you called her and told her that Tom had told you to call her. Tom had not told you to call her. As a result of your call to her, Peggy was upset with Tom and thought Tom had given away confidential information, which he had not. There is a difference between you calling Peggy because you want to and you telling Peggy

that you are calling because Tom wanted you to.

5. Peggy Brewer has indicated to us that you refused to let her come into your home because you said Bunny Harrold said Peggy was no longer the nurse for your home. Later Peggy found out that Bunny never said that and, in fact, had to call you specifically to say that Peggy was still the nurse who would be coming into your home.

6. In response to an Adult Care Home Program request for a more recent copy of your criminal record, you sent us a letter dated January 18, 1994. In it you stated, "I am at a loss as to why anyone from your office would have requested this information...", and, "There are no new convictions or traffic tickets since 1991." You entirely avoided the fact that your record at that time included an arrest on November 17, 1993, for a felony and you did not send us a full copy of your record at that time. Your actions were meant to mislead us.

I am very concerned about the number of these situations of miscommunications from you. Your credibility is at question because you have been manipulating what people say. Your actions are causing serious concerns within the network of people who are involved in the care of your residents. For example, I am concerned that you requested a second conference with me within a few days of the first one--before I could even get a response back to you about the first one. Both conferences involved 4-6 people. When we held the second conference, you could not initially remember why you wanted the conference. After the second conference, it was clear that you had no new information for me as you indicated that you had when you requested the conference. In the conference you requested all communication to you be in writing and that if there are telephone conversations that you want all of them to be taped. I do not believe that this is a reasonable request which we can accommodate.

The Aging Services Department staff, including the Adult Care Home Program staff, will communicate with you in an honest and straight-forward manner. You must also deal with all of the people who help care for your residents in an honest and straight-forward manner. I am referring to such people as the ombudsmen, doctors, nurses, case managers, other agencies' staff, resident's families and others, as well as our staff. Every Operator of an Adult Care Home has to work with many people. We are counting on you to interact in a cooperative and honest manner with all of these individuals so that the residents of your home will be well served.

The rules governing adult care homes require licensed operators to possess good judgment and good personal character. See MCAR 890-

020-220 (b) and (c). Your actions as discussed in this letter, do not reflect the necessary good judgment and personal character. This letter, as well as our statements to you in our conference, are a warning that you must deal honestly and in a straight-forward manner with all members of the care team in order to meet the standards for an adult care home operator and in order to continue to be licensed.

Sincerely,



Jean DeMaster, Program Manager
Multnomah County Adult Care Home Program

cc: Jim McConnell
Betty Glantz
John Chabin
Carole Isaman
Tom Glenn
Mary Fassell



INFORMATION IN THIS SECTION IS NOT CONFIDENTIAL

OPERATOR'S NAME: Dianna Roberts		PHONE# 666-9121	METHOD OF CONTACT
ADDRESS: 19390 N.E. Multnomah Court Portland OR 97230		DATE/TIME RECEIVED 7/24/95	RECEIVED BY: John Chabin
DATE/TIME OF INCIDENT: Ongoing	REFERRED TO: A. Potts	DATE INVESTIGATED 7/25/95	INVESTIGATION TIME

DESCRIPTION OF PROBLEM: (who, what, when, where) DO NOT USE NAMES.

ALLEGATION #1 POTENTIAL VIOLATION: MENTAL ABUSE

RESIDENTS' BILL OF RIGHTS 890-020-415(f)

- A/V#1's possessions were moved around A/P's AFH, and A/P is the person who moved them.
- A/P tells A/V#1 that s/he has Alzheimer's Disease, when A/P does not believe that A/V#1 has the disease.

ALLEGATION #2 POTENTIAL VIOLATION: FINANCIAL EXPOLITATION

RESIDENTS' BILL OF RIGHTS 890-020-415(n)

- A/V#1's money was missing; A/P took the money.
- A/V#2's money was missing and then reappeared mysteriously; A/P took and replaced the money.

ALLEGATION #3 POTENTIAL VIOLATION:

RESIDENTS' BILL OF RIGHTS 890-020-415(a)

A/P would not allow A/V#1 to go to a new doctor.

ALLEGATION #4 POTENTIAL VIOLATIONS:

a. RESIDENTS' BILL OF RIGHTS 890-020-415(d): NEGLECT

b. MCAR 890-020-500(a): NEED FOR PROMPT MEDICAL ASSESSMENT

A/V#3 fell some time between 9 p.m. on April 12 and 2:30 a.m. on April 13, 1995. After the fall, A/V#3 was put to bed by A/P, and was left in bed until 4 p.m. on April 13, 1995, a period of time somewhere between 13.5 and 19 hours. During this time, A/V#3 was incoherent, could not take medication, and did not get up out of bed. No vital signs were taken, and 9-1-1 was not called by A/P until 4 p.m. on April 13, 1995. A/V#3 was taken to the hospital, admitted for evaluation of a decreased level of consciousness, and underwent hip surgery. A/V#3's level of consciousness remained abnormal throughout his/her hospitalization. On discharge from the hospital on April 20, 1995, A/V#3 went to a nursing home, where s/he died on June 4, 1995.

OPERATOR'S NAME:		PHONE#	METHOD OF CONTACT
ADDRESS:		DATE/TIME RECEIVED	RECEIVED BY:
DATE/TIME OF INCIDENT:	REFERRED TO:	DATE INVESTIGATED	INVESTIGATION TIME
<p>DESCRIPTION OF PROBLEM: (who, what, when, where) DO <u>NOT</u> USE NAMES.</p> <p>ALLEGATION #5 POTENTIAL VIOLATIONS:</p> <ul style="list-style-type: none">a. RESIDENTS' BILL OF RIGHTS 890-020-415(d): NEGLECTb. MCAR 890-020-500(a): NEED FOR PROMPT MEDICAL ASSESSMENT <p>1. A/V#4 fell on June 7, 1995: s/he had recently returned from the AFH from the hospital, having been treated for pneumonia. A/P told Complainant that A/P left A/V#4 on the commode unattended, A/V#4 evidently tried to transfer him/herself to the wheelchair, and fell. Complainant did not see the fall him/herself.</p> <p>2. A/V#4 fell again after his/her return from the hospital on June 12, 1995. The exact date of the fall is uncertain: it happened when Complainant was off duty, which was between 10 a.m. Mondays and 10 a.m. Thursdays. A/P told Complainant of the second fall. A/P did not seek any medical care for A/V#4, even though A/V#4 had recently returned to the AFH from the hospital and even though there was severe bruising: A/V#4 was black and blue all over his/her body. Complainant saw that A/V#4 still had bruises on July 17, 1995. There is no mention of the second fall in A/V#4's progress notes.</p> <p>ALLEGATION #6 POTENTIAL VIOLATION: NEGLECT RESIDENTS' BILL OF RIGHTS 890-020-415(e) A/V#1 complained of chest pains to A/P, A/P did not attend to this, and A/P knew that A/V#1 has serious heart problems and had been prescribed medication for chest pains.</p> <p>ALLEGATION #7 POTENTIAL VIOLATION MCAR 890-020-470(a) There was no food in the house except chicken for the residents for four days.</p>			
Category (10)		Log # A950725	

COMPLAINANT

Complainant stated that s/he was very concerned about issues at A/P's AFH. These issues include missing money and moving A/V#1's personal possessions, not allowing A/V#1's choice of doctor, not providing medical help in a timely fashion to several residents, and not providing an adequate diet. (Complainant was aware that A/V#1 had a tendency to stretch the truth).

=====

ALLEGATION #1 POTENTIAL VIOLATION: ABUSE (MENTAL)

RESIDENTS' BILL OF RIGHTS 890-020-415f

a. A/V#1's possessions are moved around A/P's AFH, and A/P is the person who moved them.

b. A/P tells A/V#1 that s/he has Alzheimer's disease, when A/P does not think that A/V#1 has the disease.

STATEMENTS OF WITNESSES

COMPLAINANT

Complainant last saw A/V#1 on July 17, 1995. Complainant had been in the AFH since early 1995. A/V#1 would have things in one place and pretty soon you could not find them or they were someplace else. It was odd how things happened to move around in the AFH. Complainant did not actually see A/P move items.

A/P was trying to get A/V#1 a psychiatric evaluation. Complainant heard A/P tell A/V#1 two or three times that s/he thought A/V#1 was getting Alzheimer's disease. Complainant does not think herself that A/V has Alzheimer's.

A/P

A/P was interviewed by both this investigator and W#2 on August 10, 1995. This investigator asked A/P if s/he went into A/V's room and moved things around so A/V#1 couldn't find them. A/P said:

"A/V#1 can't find things quite often on him/her own, s/he needs assistance to find things. Several times W#3 called me and explained that A/V#1 can't find things and I had to go back and find it for her, but I've always been able to find it for him/her. We just don't disturb A/V#1's things because s/he has such a problem locating them. It's still an ongoing situation with A/V#1, finding his/her things."

This investigator also asked A/P: "Have you ever told A/V#1, or suggested to A/V#1 that s/he has Alzheimer's disease." A/P said:

"I've talked to you about it on July 26, 1995 and we agreed that s/he probably did not have Alzheimer's disease. I don't think s/he's got Alzheimer's disease. I've talked to W#3 and W#4 about it but I haven't talked to A/V#1 about it."

A/V#1

A/V#1 stated: "things just walk around"; "everyone is allowed in the rooms and they just take and use things." A bottle of A/V#1's nail polish disappeared and s/he has never saw it again.

A/V#1 also stated that A/P tells him/her that s/he has Alzheimer's disease.

W#3

W#3, A/V#1's relative, stated that A/P never said to him/her that A/V#1 had Alzheimer's.

W#5

W#5 states that A/V#1 has a very good memory and can remember small things that happened a year ago.

FINDINGS OF FACT

- 1 - A/P told A/V#1 that A/V#1 had Alzheimer's disease (Complainant, A/V#1).
- 2 - A/P does not think that A/V#1 has Alzheimer's disease (A/P).
- 3 - Things disappeared from A/V#1's room, and either were found elsewhere in the AFH or never seen again (Complainant, A/V#1).

ALLEGATION #1 POTENTIAL VIOLATION: ABUSE (MENTAL)
RESIDENTS' BILL OF RIGHTS 890-020-415f

- a. A/V#1's possessions are moved around A/P's AFH, and A/P is the person who moved them.

A/V#1's Possessions Were Moved - SUBSTANTIATED
A/P Moved A/V#1's Possessions - UNABLE TO SUBSTANTIATE

- b. A/P tells A/V#1 that s/he has Alzheimer's disease, when A/P does not think that A/V#1 has the disease.

A/P tells A/V#1 that s/he has Alzheimer's Disease - SUBSTANTIATED
A/P does not think that A/V#1 has Alzheimer's - SUBSTANTIATED

ALLEGATION #2 POTENTIAL VIOLATION: FINANCIAL EXPLOITATION

RESIDENTS' BILL OF RIGHTS 890-020-415 N

a. A/V#1's money was missing; A/P took the money.

b. A/V#2's money was missing and then reappeared mysteriously; A/P took and replaced the money.

STATEMENTS OF WITNESSES

COMPLAINANT

Complainant stated on July 24, 1995 that A/V#1 would have things and all of a sudden they would be gone. Complainant counted A/V#1's money with A/V#1, and then it was gone. Complainant never saw anyone take it. A/V#1 would complain that the money was missing and A/P would say "I can't be responsible for their money and what happens to their money."

There was also a money situation with A/V#2. A/V#2 came out and said "I lost \$200." Complainant told A/P that A/V#2 had lost his/her money and A/P said again that s/he could not be responsible for their money. Complainant and A/V#2 went through all of A/V#2's things, drawers, purses, etc. and could not find the money. A/V#2 then called his/her children and said the money was gone, and A/V#2's daughters had some consultation over the money with A/P. After Complainant had been gone for a couple of days, and after A/V#2 had spoken with his/her daughters, Complainant asked A/V#2 if s/he had found his/her money. A/V#2 said it was right there where we looked. Complainant was not in the conversation between A/V#2, the children and A/P.

A/P

This investigator stated to A/P on August 10, 1995, "We've talked about A/V#1 and money in the past, but there's an issue with A/V#2 and some money missing." A/P stated that A/V#2's wallet had been lost for several days at the time when s/he transferred from one bedroom to another and she had been out to church during that week two or three times. A/P talked to the person taking A/V#2 to church. A/P said:

"I don't know if this person is a minister or not. I spoke with the person that went and drove A/V#2 to and from the church. S/he was going to see if the people A/V#2 rode with, to see if it was in their car. A/V#2 him/herself had not talked to those people that s/he was with because s/he didn't want to. Well, as it turned out, A/V#2 had found his/her wallet and his/her purse. A/V#2 had several purses, that's the thing, it was in a different purse. A/V#2 had no idea how much was in that wallet. I have no idea but it was hers. A/V#2 didn't tell us when she found it. The money was in a purse, s/he has several purses you know, satchels and briefcases, new ones and old ones, and it was missing to my knowledge about 7 days, not gone but it was misplaced. I had never even looked for it, s/he said s/he found it on her own and didn't say nothing' to nobody. I never, when I eventually talked to W#2's children and they said, "Well, would you look?" and I said Well, I can, but I don't really feel comfortable rummaging through all of her things and as it turned out by that time A/V#2 had located it herself. Nobody else rummaged through all of her things because it had been located, we never had to do that."

This investigator asked A/P, "Did you ever have any situation like that with A/V#1? Missing money?" A/P said:

"I can't keep track of her money either. But, one time I found it in her drawer, her entire lot money, \$600 every month was in her drawer, sealed with a paper clip like I hand it to him/her. And I really don't feel comfortable not allowing those two ladies to have their own funds. That's really, you know, I could avoid this complaint by restricting them. It would not make their families very happy. In fact, A/V#1 would be very unhappy, I don't think A/V#2 would like it. I have given it serious consideration, because, in talking to other caregivers, this is their

policy, no money in the house. None of my private pay clients have money in the house, none of them. And, this is a matter of, their rights, to have their spending money. If they can't keep track of it, I don't know what to [?] A/V#1 gives W#3 and W#4 his/her money sometimes. She gives W#3 the money. And, so W#3 holds it sometimes. She gives W#4 her wallet sometimes. And, then s/he accuses the other one stealing it."

A/V#1

A/V#1, when interviewed with W#2 on August 10, 1995 in A/P's AFH, stated that A/P is always messing around in his/her business and wants to know everything and where every penny goes.

A/V#1, when interviewed on August 16, 1995 by this investigator in the new AFH of W#6, complained that money was missing from his/her wallet during the move. S/he had \$80 and there was only \$55 left.

A/V#1's MEDICAL RECORDS

A/V#1's mental status exam on August 14, 1995 at Providence Hospital, which took place after the money incident allegedly occurred, stated that A/V#1 was oriented, s/he scored in the unimpaired range, and there is evidence of mild suspiciousness of people taking things from him/her.

W#3

W#3, A/V#1's relative, stated in a telephone conversation to this investigator on August 17, 1995 that the evening A/V#1 left the AFH s/he had gone out with his/her family and had given \$20 to a family member for a Birthday and given another family member \$20, bought donuts for the residents at the AFH, and left a tip, leaving A/V#1 approximately \$55.

W#4

W#4, A/V#1's relative, stated to this investigator on the telephone on August 18, 1995 that the last time A/V#1 was in W#6's AFH, A/V#1 complained to W#4 that someone stole his/her money, and s/he had lost \$26. W#4 found \$20 in the trash can.

A/V#2

A/V#2 was interviewed on August 10, 1995 by this investigator and W#2. A/V#2 stated that s/he lost his/her money. A/V#2 said: "Evidently I misplaced it and couldn't figure out where it was". A/V#2 could not remember if anyone helped him/her look for it, s/he said: "maybe Complainant did." A/V#2 told his/her children about it.

A/V#2's CHILDREN

Were unavailable to be interviewed.

A/V#2's MEDICAL RECORDS

A/V#2's mental status, from a nursing assessment of August 8, 1995, is alert and oriented, but forgetful at times.

FINDINGS OF FACT

- 1 - A/V#1 and Complainant together counted A/V#1's money, and later the money was gone (A/V#1, Complainant).
- 2 - On occasion A/V#1 gave money away or threw money away, and forgot s/he had done this (A/P, W#3, W#4).
- 3 - A/V#2's money was missing from his/her room (Complainant, A/V#2, A/P).
- 4 - A/V#2's room was searched for missing money (Complainant, A/V#2).
- 5 - A/V#2's money reappeared in A/V#2's room later that week (A/P, A/V#2).
- 6 - A/V#2's money reappeared in A/V#2's room later that week, after A/V#2's family had discussed the matter with A/P (Complainant).

ALLEGATION #2 POTENTIAL VIOLATION: FINANCIAL EXPLOITATION RESIDENTS' BILL OF RIGHTS 890-020-415 N

- a. A/V#1's money was missing; A/P took the money.

Money was Missing - SUBSTANTIATED

A/P Took the Money - UNABLE TO SUBSTANTIATE

- b. A/V#2's money was missing and then reappeared mysteriously; A/P took and replaced the money.

Money Disappeared and Reappeared - SUBSTANTIATED

A/P Took and Replaced the Money - UNABLE TO SUBSTANTIATE

ALLEGATION #3 POTENTIAL RULE VIOLATION
RESIDENTS' BILL OF RIGHTS 890-020-415(a)
A/P would not allow A/V#1 to go to a new doctor.

STATEMENTS OF WITNESSES

COMPLAINANT

Complainant stated on July 24, 1995 that when A/V#1 moved back to A/P's AFH there was a new doctor's appointment for A/V#1 with a new doctor. Complainant talked to W#3. W#3 said to please have A/V#1 ready and s/he would pick him/her up to take to the new doctor.

A/P got a hold of W#7 (a doctor) and convinced W#7 to take A/V#1 back as a patient. A/P asked Complainant to tell A/V#1 that s/he was not going to this new doctor and was going to keep W#7 as his/her doctor.

A/V#1 was upset and cried. After all, A/V#1 said s/he was a grown person and s/he should have the right to go to his/her own doctor. Complainant was so upset when s/he told A/V#1 that A/V#1 could not go to the new doctor that Complainant sat and cried with A/V#1.

A/V#1's family was willing to take A/V#1 to the new doctor.

A/P

A/P stated on August 10, 1995 that W#6 (operator of AFH where A/V#1 lived for several weeks in June 1995) made an appointment for A/V to see W#8 (doctor). A/P said: "I certainly wasn't up to dealing with a new doctor, myself. [W#7] has agreed to continue [his/her] services, at least up until this week, [s/he's] again, threatening to cancel, terminate [his/her] services." A/P also said:

"About seven or six years ago we were with [W#8's] medical clinic we had a lot of problems with them and that's why we switched to [W#7] about six years ago. The situation with staying with [W#7] is the same as [him/her] staying with me, [W#7] knows [him/her], as I know [him/her]. And if [s/he] had, in fact stayed in a different home and went to a different doctor, [s/he] would have automatically been prescribed a lot different medication, like [s/he] was on when [s/he] first came here, maybe 10 or 12 different medications, now [s/he's] on three. One prescribed over the counter; and I well, I've encouraged [W#7] to take [him/her] back in to the clinic because I decided I couldn't, I really wouldn't have been able to keep [A/V#1] if we were going to go through the situation of another doctor learning of all of [A/V#1's] problems.

"[W#7] knew [A/V#1] well and I only terminated [him/her] because they moved her, that's the only reason. [W#7's] letter stated, if you move [A/V#1] out of this house, I will terminate my services, so [W#7] terminated [his/her] services. When [s/he] came back to the house, [W#7] took [him/her] back in. [W#8] might be [W#6's] house doctor. I consider [W#7] my house doctor. [A/V#1] was upset because she knew she had a doctors appointment that morning, and I couldn't get [him/her] into [W#7] for another week or two."

A/V#1

A/V#1 stated on August 10, 1995 that s/he had a new doctor at the hospital and that s/he did not want to go to W#7 anymore. A/V#1 believed s/he had a new doctor that s/he liked. A/V#1 also stated that A/P said that s/he could not go to the new doctor.

W#3 and W#4

Both W#3 and W#4, daughters of A/V#1, stated that A/V#1 throughout his/her life was always changing doctors. W#3 knew that A/V#1 had an appointment with W#8, but A/P called W#3 and said the appointment was cancelled.

W#7

In a letter dated May 13, 1995, W#7 stated that s/he did not want to be A/V#1's doctor if A/V#1 left A/P's AFH.

INVESTIGATOR'S OBSERVATIONS

A/P is a strong-willed, controlling person who can be very difficult to deal with, and less strong-willed people tend to give in to A/P rather than argue with him/her.

FINDINGS OF FACT

- 1 - A/V#1 confirmed more than once that s/he wanted to see another doctor (Complainant, Investigator).
- 2 - A/P stated that W#7 is his/her house doctor and A/P did not want to deal with A/V#1 having a new doctor (A/P).
- 3 - W#7 terminated his/her services when A/V#1 moved to W#6's AFH (W#7's letter, A/P).
- 4 - A/V#1 and W#3 were prepared to go to the new doctor as scheduled (A/P, Complainant, W#3).
- 5 - A/P called W#3 and told him/her that the appointment was cancelled (W#3).
- 6 - A/P stated that A/V#1 could not go to the new doctor (W#8), but must keep going to the old doctor (W#7) (A/P, Complainant, A/V#1).

ALLEGATION #3 POTENTIAL RULE VIOLATION

RESIDENTS' BILL OF RIGHTS 890-020-415D

A/P would not allow A/V#1 to go to a new doctor.

SUBSTANTIATED

ALLEGATION #4 POTENTIAL VIOLATIONS:

- a. RESIDENTS' BILL OF RIGHTS 890-0202-415(d): NEGLECT
- b. MCAR 890-020-500(a): NEED FOR PROMPT MEDICAL ASSESSMENT

A/V#3 fell some time between 9 p.m. on April 12 and 2:30 a.m. on April 13, 1995. After the fall, A/V#3 was put to bed by A/P, and was left in bed until 4 p.m. on April 13, 1995, a period of time somewhere between 13.5 and 19 hours. During this time, A/V#3 was incoherent, could not take medication, and did not get up out of bed. No vital signs were taken, and 9-1-1 was not called by A/P until 4 p.m. on April 13, 1995. A/V#3 was taken to the hospital, was admitted for evaluation of a decreased level of consciousness, and underwent hip surgery. A/V#3's level of consciousness remained abnormal throughout his/her hospitalization. On discharge from the hospital on April 20, 1995, A/V#3 went to a nursing home, where s/he died on June 4, 1995.

STATEMENTS OF WITNESSES

COMPLAINANT

Complainant stated that A/V#3 passed away. A/V#3 would stay in her room and do for herself. Complainant went into work at A/P's AFH on April 13, 1995, after A/V#3 had fallen, because A/P wanted to go to Salem for a meeting. A/P told Complainant that A/V#3 had fallen about nine p.m. the night before, and A/P had gotten A/V#3 into bed but s/he had no nightclothes. A/P asked Complainant to put his/her night clothes on and if anybody asked A/V#3 fell about three a.m. A/V#3 was incoherent and could not get her medication down. Complainant believed that A/V#3 needed medical treatment, but A/P had told him/her that s/he had no right to call 9-1-1: s/he had been instructed by A/P that s/he "didn't make that decision." A month or two later, A/P told Complainant that s/he could call 9-1-1, but at the time of the fall Complainant believed that s/he had no authority to call anybody: if Complainant needed to call 9-1-1, s/he was supposed to talk to A/P about it.

About 4 p.m. on April 13, 1995, A/P returned to the home, and Complainant told A/P that someone should come and take vitals and look at A/V#3. A/P called 9-1-1, and A/V#3 went to Providence Hospital, and later to a nursing home. A/V#3 had been getting up and around and this was a real change of condition. This was a day and night change. Complainant later heard that A/V#3 had suffered a fractured hip and a double stroke.

A/P

On August 10, 1995, when asked about the incident with A/V#3, A/P stated that through medical tests it was determined that s/he had a stroke. A/P stated:

"A/V did fall during the early morning so we observed [him/her]. I assisted [him/her] back into bed and [s/he] was able to help and I assisted [him/her] and I observed [him/her] and until about noon or two o'clock I believe and then decided that we needed to have [him/her] checked out. [His/her] routine was to sleep until noon, 11:30 is when we got [him/her] up, so [s/he] didn't want to get up at 11:30. [S/he] still wasn't wanting to get up so we called 9-1-1 at 2 in the afternoon." A/P stated that s/he did not have any of A/V#3's records available.

On October 17, 1995, A/P stated to this investigator and W#2 that A/P was in Salem during the day of April 13, 1995.

W#8

W#8's assistant (W#8 is a physician) stated on August 16, 1995 that there was no record of A/V#3 having any previous contact with W#8, and W#8 was a consultant after A/V#3's hospitalization. W#8 was not contacted prior to hospitalization. The hospital report by W#8 stated that: A/V#3 was admitted to the hospital for evaluation of a decreased level of consciousness; following surgery her level of consciousness remained abnormal; s/he had a change in mental status; was lethargic; oriented to person/place/month but not year; and would not cooperate with some hospital personnel.

W#9

W#9, a physician, talked with W#8's assistant on August 17, 1995. W#9 was on call the night A/V#3 was admitted to the hospital and according to the records, A/V#3 was admitted to the hospital at 8:54 P.M. on April 13, 1995. A/V#3 was admitted for a decreased level of consciousness, and following hip surgery his/her level of consciousness remained abnormal.

A/V#3's MEDICAL RECORDS

A/V#3's emergency room records stated that s/he "had an unwitnessed fall this morning and since that time has not been able to walk well with [his/her] walker"; s/he "was brought to [the emergency room] for a change in mental status with decreased responsiveness and increased sleepiness"; and that s/he had a "history of diarrhea for the last seven days." A/V#3's daughter, who was present, stated that A/V#3's "mental status is significantly different." A/V#3 was "alert and oriented to [the hospital] but is not oriented to date, month or year." A/V#3 complained of right hip pain, and x-rays revealed a subcapital fracture of the right hip.

A CT scan of A/V#3's brain indicated that s/he had bilateral basal ganglia infarcts of indeterminate age (i.e., blood clots on both sides of the brain, which are indicative of a past stroke or strokes), but there was no evidence of acute intracranial change (i.e., no large change within the brain).

The Consultation report of the neurologist, dated April 16, 1995, stated that the consultation occurred because A/V#3 remained lethargic following hip surgery. S/he was admitted to the hospital for evaluation of a decreased level of consciousness; and following surgery his/her level of alertness remained abnormal. At that time, the neurologist could not find any "easy-to-define etiology."

The Attestation Report of April 21, 1995 states that the infarcts were A/V#3's principal diagnosis. The secondary diagnoses included congestive heart failure, aspiration pneumonia, hyponatremia, hypertension, and the right hip fracture.

The Discharge Summary Report stated that A/V#3 was brought to the [emergency room] because of a change in mental status, and that his/her mental status "waxed and waned" while in the hospital.

FIRE DEPARTMENT RECORDS

The Fire Department was dispatched to A/P's AFH at 3:59 p.m. on April 13, 1995, and arrived at 4:01 p.m.

A/V#3's FAMILY MEMBERS

Were unavailable for interviews.

FINDINGS OF FACT

- 1 - A/V#3 fell some time between 9:00 p.m. on April 12 and 2:30 a.m. on April 13, 1995 (A/P, Complainant).
- 2 - A/V#3 had a decreased level of consciousness and mental status following the fall and before 9-1-1 was called: A/V#3 was incoherent, could not take medication, slept much later than usual, and did not want to arise (A/P, Complainant, medical records).
- 3 - A/P was not in the AFH between 9 a.m. and 3:30 p.m. on April 13, 1995 (Complainant, A/P).
- 4 - The caregiver in charge had been told by A/P that s/he had no authority to call 9-1-1; that the caregiver "didn't make that decision" (Complainant).
- 5 - A/P did not call 9-1-1 until nearly 4:00 p.m. on April 13, 1995 (Fire Department records, Complainant).
- 6 - A/V#3 was admitted to the hospital for evaluation of a decreased level of consciousness, and his/her level of consciousness remained abnormal throughout her hospital stay (medical records).

ALLEGATION #4 POTENTIAL VIOLATIONS:

- a. RESIDENTS' BILL OF RIGHTS 890-0202-415(d): NEGLECT
- b. MCAR 890-020-500(a): NEED FOR PROMPT MEDICAL ASSESSMENT

A/V#3 fell some time between 9 p.m. on April 12 and 2:30 a.m. on April 13, 1995. After the fall, A/V#3 was put to bed by A/P, and was left in bed until 4 p.m. on April 13, 1995, a period of time somewhere between 13.5 and 19 hours. During this time, A/V#3 was incoherent, could not take medication, and did not get up out of bed. No vital signs were taken, and 9-1-1 was not called by A/P until 4 p.m. on April 13, 1995. A/V#3 was taken to the hospital, was admitted for evaluation of a decreased level of consciousness, and underwent hip surgery. A/V#3's level of consciousness remained abnormal throughout his/her hospitalization. On discharge from the hospital on April 20, 1995, A/V#3 went to a nursing home, where s/he died on June 4, 1995.

- a. SUBSTANTIATED
- b. SUBSTANTIATED

ALLEGATION #5 POTENTIAL VIOLATION:

- a. RESIDENTS' BILL OF RIGHTS 890-0202-415(d): NEGLECT
- b. MCAR 890-020-500(a): NEED FOR PROMPT MEDICAL ASSESSMENT

1. A/V#4 fell on June 7, 1995: s/he had recently returned to the AFH from the hospital, having been treated for pneumonia. A/P told Complainant that A/P left A/V#4 on the commode unattended, A/V#4 evidently tried to transfer him/herself to the wheelchair, and fell. Complainant did not see the fall him/herself.
2. A/V#4 fell again after his/her return from the hospital on June 12, 1995. The exact date of the fall is uncertain: it happened when Complainant was off duty, which was between 10 a.m. Mondays and 10 a.m. Thursdays. A/P told Complainant of the second fall. A/P did not seek any medical care for A/V#4 for the second fall, even though A/V#4 had recently returned to the AFH from the hospital and even though there was severe bruising: A/V#4 was black and blue all over his/her body. Complainant saw that A/V#4 still had bruises on July 17, 1995. There is no mention of the second fall in A/V#4's progress notes.

STATEMENTS OF WITNESSES

COMPLAINANT

Complainant said that when A/V#4 went to A/P's AFH and s/he was able to transfer from wheelchair to commode to bed. A/V#4 got pneumonia and was in and out of the hospital several times. A/V#4 had diarrhea, and A/P told Complainant that: A/P put A/V#4 on the commode and walked out of the room; and A/V#4 evidently tried to get up from the commode to the wheelchair, the wheelchair wasn't close enough for her to reach it, and s/he fell. Complainant did not observe this fall. A/V#4 went to the hospital again.

When A/V#4 returned from the hospital s/he was extremely sore, and when you touched her s/he would scream. A/V#4 told A/P that s/he did not want A/P to touch her, only "the other lady [i.e., Complainant]." A/V#4 was feeling better after some time, but had diarrhea again and hadn't been eating a lot. A/P told Complainant that while Complainant was off duty, A/P took A/V#4 into the bathroom to clean him/her up from the diarrhea, and thought that s/he could hang on, but s/he fell once again. A/V#4 hit his/her arms on the commode and also his/her right sternum. A/V's chest and legs were all black and blue. Complainant said that A/P never called anyone to look at A/V#4 after this second fall, A/P "just left [him/her]." Complainant observed the bruises him/herself, but not this second fall.

A/P

A/P was asked by this investigator about the fall A/V#4 had in A/P's AFH. This investigator asked "Can you tell me a little bit about how A/V#4 fell." A/P said:

"A/V#4 had just come home from the hospital recently. My routine is to sit A/V#4 on the commode in the morning when I get her up out of bed. That's been my routine for three years. A/V#4 fell off the commode, I didn't know, I had no idea that she was so weak. We called the paramedics, and [s/he] was transported for x-rays to Kaiser-Sunnyside."

A/P stated that A/V#4 had some bruises because s/he fell forward. A/P made no comment about a second fall.

A/V#4

This investigator tried to interview A/V#4 at A/P's AFH on July 26, 1995, but could not speak confidentially with him/her.

INVESTIGATOR'S OBSERVATIONS

Investigator observed A/V#4 on July 26, 1995 and saw no visible bruises at that time.

KAISER PERMANENTE RECORDS

A/V#4 had been in the hospital on May 21, May 23, May 25 through May 26, and May 27 through May 31, 1995, for treatment for pneumonia, upper gastrointestinal bleeding, anemia, bronchitis, and contact/diaper rash.

The Discharge Summary of May 31, 1995 states that "patient exhibited fluctuation in mood from content to irascible and uncooperative. This was familiar to her caregiver and not investigated."

The History and Physical of June 7, 1995 states that A/V#4 was "admitted with a right-sided pneumonia," and that "today while getting up on the commode or ambulating from the bed, she suddenly became weak and fell." Further, "[A/V#4] will be assessed by PT, speech and care coordination for possible disposition as the patient has had frequent admissions to the ER and the hospital in the last month and may need a different living situation."

W#11

W#11, an employee of Kaiser Permanente, looked through A/V#4's records on August 18, 1995 and found that A/V#4 was admitted on June 7, 1995 for pneumonia.

W#17

W#17, an employee of Kaiser Permanente, stated that A/V#4 was scheduled for a visit on July 10, 1995, as a follow-up after his/her June 7, 1995 hospitalization. However, this visit was cancelled, and Kaiser records do not show who cancelled the visit.

Kaiser records do show A/V#4 had been prescribed Tylenol #3 (20 pills) on his/her release from the hospital on June 12, 1995, and that the Tylenol #3 prescription (again 20 pills) was refilled on July 21, 1995. Tylenol #3 contains codeine, and is a controlled substance. On October 5, 1995, A/V#4 had his/her first medical appointment since being released from the hospital on June 12, 1995.

W#18

W#18, an employee of Kaiser Permanente, stated that A/V#4's Tylenol #3 prescription for 20 pills was refilled on July 21, 1995, but the records do not indicate a reason for the refill.

FINDINGS OF FACT

- 1 - A/V#4 fell while using the commode in A/P's AFH on June 7, 1995, having been left unattended by A/P; and again sometime later, resulting in severe bruising (A/P, Complainant).
- 2 - A/P called 9-1-1 to have A/V#4 transported to the hospital (A/P, medical records).
- 3 - A/V#4 was admitted to the hospital on June 7, 1995 for pneumonia (W#11, hospital records).
- 4 - A/V#4 had been in the hospital on May 21, May 23, May 25, and May 27, 1995, for treatment for pneumonia, upper gastro-intestinal bleeding, anemia, and bronchitis (Kaiser Permanente records).
- 5 - A/P, an AFH operator for 10 years who has completed CNA training, should have known that A/V#4 was in a weakened condition due to multiple, recent hospitalizations, and still left A/V#4 unattended to use the commode, where s/he fell the first time.
- 6 - A/P, an AFH operator for 10 years who has completed CNA training, should have known that A/V#4 was in a weakened condition due to multiple, recent hospitalizations and diarrhea, and still left A/V#4 standing unsupported in the bathroom, where s/he fell a second time.
- 7 - A/P did not seek medical assessment for A/V#4 after the second fall, even though A/V#4 was severely bruised.

ALLEGATION #5 POTENTIAL VIOLATIONS:

- a. RESIDENTS' BILL OF RIGHTS 890-0202-415(d): NEGLECT
 - b. MCAR 890-020-500(a): NEED FOR PROMPT MEDICAL ASSESSMENT
1. A/V#4 fell on June 7, 1995: s/he had recently returned to the AFH from the hospital, having been treated for pneumonia. A/P told Complainant that A/P left A/V#4 on the commode unattended, A/V#4 evidently tried to transfer him/herself to the wheelchair, and fell. Complainant did not see the fall him/herself.
 - a. SUBSTANTIATED
 2. A/V#4 fell again after his/her return from the hospital on June 12, 1995. The exact date of the fall is uncertain: it happened when Complainant was off duty, which was between 10 a.m. Mondays and 10 a.m. Thursdays. A/P told Complainant of the second fall. A/P did not seek any medical care for A/V#4 for the second fall, even though A/V#4 had recently returned to the AFH from the hospital and even though there was severe bruising: A/V#4 was black and blue all over his/her body. Complainant saw that A/V#4 still had bruises on July 17, 1995. There is no mention of the second fall in A/V#4's progress notes.
 - a. SUBSTANTIATED
 - b. SUBSTANTIATED

ALLEGATION #6 POTENTIAL VIOLATION: NEGLECT
RESIDENTS' BILL OF RIGHTS 890-0202-415(e)

A/V#1 complained of chest pains to A/P, A/P did not attend to this, and A/P knew that A/V#1 had serious heart problems.

STATEMENTS OF WITNESSES

COMPLAINANT

Complainant stated that on or about July 17, 1995, A/V#1 had chest pains and side pain and A/P did not attend to this. A/V#1 complained of a side ache and chest pains to Complainant. A/V#1 asked Complainant to call 9-1-1. A/P would not let Complainant call 9-1-1 especially for A/V#1. A/P showed up and argued with A/V#1 for ten minutes after, instead of checking A/V#1 for chest pains. Complainant stated to A/P that s/he was quitting and A/P wanted to know if it was on account of A/V#1 and Complainant said no. Complainant and A/P argued back and forth, but to Complainant's knowledge A/P never called 9-1-1. Complainant was asked to write a letter about A/V#1's condition over the weekend. Complainant did, stating that A/V#1 had chest pains.

A/P

A/P was asked by this investigator why s/he did not attend to A/V#1's chest pains. A/P replied:

"A/V#1 would routinely have chest pains. There was a contract nurse that was dealing with that situation as was [W#7]. It's a daily complaint, I hear it every single day. And, we, [s/he] has seen a cardiologist [W#8], [s/he] has worn, whatever kind of contraption [s/he] had, monitors, on weekends, and the cardiologist determined [s/he] was fine. The chest pain complaints persists but we can't get alarmed because we're so accustomed to hearing it."

A/P's RECORDS

A/V#1's Resident Care Plan, which was completed by A/P, states that A/V#1's medical history includes "heart/stroke," and congestive heart failure. A/V#1's Physician Orders include Nitrostat 0.3mg, to be given as needed for chest pain.

W#3

W#3, A/V#1's daughter, stated that s/he never heard A/V#1 complain of chest pains.

W#4

W#4, A/V#1's daughter, stated to this investigator on the phone on August 18, 1995 that s/he had visited A/V#1 and taken him/her to the bank during A/V#1's July stay in W#6's AFH. W#4 stated that at that time A/V#1 had chest pains and wanted medical attention, and s/he discussed this with W#6. A/V#1 has complained of chest pains often according to W#4.

W#6

W#6, an AFH operator, stated that during A/V#1's stay in his/her home in June and now during the present stay, A/V#1 had not complained of chest pains. W#6 did not have any conversation with W#4 at that time.

W#7

W#7, a physician, stated that A/V#1 never told him/her that A/V#1 had chest pains, and A/P never told him/her that A/V#1 had chest pains. However, a contract nurse did call W#7 and tell him/her about A/V#1's chest pains.

W#12

W#12's nurse stated that A/V#1 last saw W#12 (a physician) in 1992. W#12's medical records stated that A/V#1: has congestive heart failure, had bypass surgery in 1986, had one or possibly two heart attacks in 1986, and in the future would most likely need to have a pacemaker implanted to prevent fatal bradycardia. The record also stated that in 1992, it was W#12's opinion that

A/V#1's chest pains were probably noncardiac. Finally, the record stated:
"[His/her] caretaker has not come with the patient [to the medical appointment]
and nobody knows at the foster home what medications [s/he] is supposed to be
taking."

FINDINGS OF FACTS

1 - A/V#1 had a history of heart problems, including heart attacks, congestive heart failure, and bypass surgery (A/P records, W#12 records).

2 - A/V#1 was seen by a cardiologist for chest pains in 1992, and the doctor determined that the 1992 pains probably were noncardiac (A/P, W#12).

3 - A/V#1 has not been evaluated by a cardiologist since 1992.

4 - A/V#1 complained of chest pains to others (Complainant, W#4, medical records, A/V#1, A/P).

5 - A/V#1 complained of chest pains to A/P, and A/P did not respond (Complainant, A/P, A/V#1).

6 - A/P had knowledge that: A/V#1 had serious heart problems, A/V#1 had been prescribed Nitrostat for chest pain, and the Nitrostat was not self-administering (A/P, A/P records).

ALLEGATION #6 POTENTIAL VIOLATION: NEGLECT

RESIDENTS' BILL OF RIGHTS 890-0202-415(e)

A/V#1 complained of chest pains to A/P, A/P did not attend to this, and A/P knew that A/V#1 had serious heart problems.

SUBSTANTIATED

ALLEGATION #7 POTENTIAL VIOLATION
RULE 890-020-470A

There was no food in the house except chicken for the residents for 4 days.

STATEMENTS OF WITNESSES

COMPLAINANT

Complainant said: "We didn't have any food only chicken. She served chicken at least 4 nights in a row." This 4 day period occurred between July 5 and July 17, 1995. Complainant also stated that all A/V#4 liked was chicken, so that is all A/P was giving the residents.

A/P

A/P was asked by this investigator about the amount of food in the house and the variety on August 10, 1995. A/P said:

"I don't think so any of my residents have complained not having enough, both my refrigerators, and my freezer, all my cupboards you'll see, and my pantry I'm sure you will see adequate food supply."

A/P did not deny serving chicken 4 nights in a row.

INVESTIGATOR'S OBSERVATIONS

On August 10, 1995, this investigator inspected the freezer, refrigerators and cupboards. There was an ample amount and variety of food on hand. Investigator did not inspect A/P's freezer, refrigerators, or cupboards during the time period July 5 through July 17, 1995.

W#14

W#14 told W#2 on September 20, 1995 that A/P serves a lot of fried chicken because that is what A/V#4 (W#14's relative) wants to eat.

W#15

W#15, a former caregiver, reported to the ACHP that there was inadequate food in A/P's AFH for the residents.

W#16

W#16, a former caregiver, reported to the ACHP that insufficient food was given to the residents in A/P's AFH.

FINDINGS OF FACT

- 1 - Chicken is often served in A/P's AFH (Complainant, W#14).
- 2 - On August 10, 1995, the cupboards, freezer, and refrigerator were full of a variety of food (Investigator, A/P).
- 3 - Two former caregivers previously reported to the ACHP that there was insufficient food in A/P's home for the residents (W#15, W#16).

ALLEGATION #7 POTENTIAL VIOLATION:

RULE 890-020-470A

There was no food in the house except chicken for the residents for 4 days.
UNABLE TO SUBSTANTIATE

Category 10

Log # A950725

Type of Home AFH X R&B _____
 SDSD _____ MED _____ DD _____

Care Home Address 19390 N.E. Multnomah Court 666-9121
 Street Address
 Portland OR 97230
 City State Zip

Operator's Name Dianna Roberts
 Operator's full name

Manager's Name _____
 Resident Manager's full name

Narrative: Action taken and findings (include dates and times-do not use names)

FINDINGS: (Check appropriate box and provide comments if needed.)

- ☒ 01 Statute or rule violation evident _____
☐ 02 No statute or rule violation _____
☐ 03 Unable to determine if violation occurred _____

ACTION OR RECOMMENDATION: (Check appropriate box(es).)

- ☐ 01 Revisit date: _____
☐ 02 Referred to: a. _____ b. _____ c. _____
☐ 03 Decertification
☒ 04 License revocation
☐ 05 Civil penalty
☐ 06 Administrative conference
☐ 07 Letter of _____ conditions and/or _____ reprimand
☐ 08 Date investigation closed: _____

Report filed By (signature): _____ Date 11/23/95

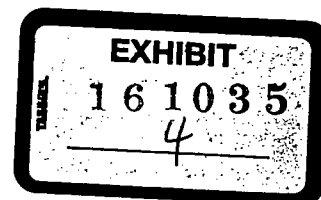
Annelle Potts Melvin A. Mufson
SIGNATURE

Lea Notified: ☐ Yes Date: _____ Time: _____ ☒ No

CATEGORY: 10

COMPLAINT FORM

LOG # A950827



BILLING STATUS: MEDICAID <u>X</u> PRIVATE <u> </u>			
INFORMATION IN THIS SECTION IS <u>NOT</u> CONFIDENTIAL			
OPERATOR'S NAME: Dianna Roberts		PHONE# 666-9121	METHOD OF CONTACT
ADDRESS: 19390 N.E. Multnomah Court Portland OR 97230		DATE/TIME RECEIVED 8/17/95	RECEIVED BY: Rene Bove- Johnson
DATE/TIME OF INCIDENT: 8/13/95	REFERRED TO: A. Potts	DATE INVESTIGATED 8/18/95	INVESTIGATION TIME
<p>DESCRIPTION OF PROBLEM: (who, what, when, where) DO <u>NOT</u> USE NAMES.</p> <p>ALLEGATION #1 POTENTIAL VIOLATION: NEGLECT RESIDENTS' BILL OF RIGHTS 890-020-415(e) A/P was withholding food from, and not providing care for, A/V.</p> <p>ALLEGATION #2 POTENTIAL VIOLATION: ABUSE BY RESIDENT RESIDENTS' BILL OF RIGHTS 890-020-410(f) A/P believed and reported that A/V might abuse other residents, but failed to prevent this abuse.</p> <p>ALLEGATION #3 POTENTIAL VIOLATION MCAR 890-020-445(a) and (b) A/P called 9-1-1, falsely claiming that A/V was abusive and combative toward other residents and A/P on August 13, 1995, as a way to evict A/V.</p>			
Category (10)		Log # A950827	

STATEMENTS OF WITNESSES

COMPLAINANT #1

Complainant #1 reported on August 14, 1995 that A/V, on August 13, 1995, stated that A/P was withholding food and not taking care of A/V, and telling A/V to walk when s/he is paralyzed. Complainant #1 reported that s/he was dispatched through 9-1-1 to A/P's AFH, and found that A/V wanted to be removed from A/P's AFH and taken to the hospital. Complainant #1 was informed that there were problems between A/V and A/P. A/V was transported to the hospital at A/V's request.

Complainant #1 reported on September 7, 1995 that since the incident, A/P has telephoned the Police Department many times, demanding that the Police Department change their report of the 9-1-1 call. The Police Department refused to change the report as A/P demanded.

COMPLAINANT #2

Complainant #2 stated that A/V was sent to the hospital without needing emergency care, and A/P refused to let A/V come back to A/P's AFH. S/he also reported in hospital nursing notes that when A/V was interviewed on August 13, 1995, s/he was alert, oriented, his/her mood was calm, and affect was full (i.e., A/V was able to react appropriately to all emotional situations). A/V's memory was intact and A/V stated that s/he didn't want to go back to the current AFH because s/he was not treated well there. A/V stated that s/he was not given any food.

A/V

A/V, when interviewed on August 18, 1995 at W#5's AFH, stated that on the night of August 13, 1995 s/he went out to dinner with his/her family. When s/he returned there were two gentlemen in his/her room at A/P's AFH who frightened him/her. They took A/V to the hospital. A/V stated that s/he had not hit any of the residents or been combative that evening. S/he said s/he just got back and went straight to his/her room.

A/P

This investigator interviewed A/P on August 18, 1995, and A/P stated:

"[A/V] was argumentative, combative and manipulative ever since [this investigator and W#11 went to the AFH to interview A/V on August 10, 1995]. From Thursday on, [A/V] was impossible and Sunday night we could not take it anymore. [S/he] had the whole house upset. Everybody wanted [him/her] out, [s/he] hit one of the residents (W#12) who is in a wheel chair. I then called 9-1-1 and told them to take [him/her] out. 9-1-1 said they cannot do it and I said well I cannot keep [A/V]. We tried to get the doctor on the phone but they did not call back until 9-1-1 was here. I called the family. The officer after all those phone calls said he could take [him/her] out; but initially, he did not want to. Within 20 minutes of the phone call the officer changed his mind. [A/V]

went out with W#6 for dinner that evening. [A/V] hitting W#12 was not observed by any of the residents. [A/V] was combative since Thursday. I refused to take [him/her] back and I have been trying for quite sometimes to get them to do a psychological evaluation. I even tried [during her last hospitalization]. There was no changes in medication after [his/her] hospitalization."

On August 21, 1995, A/P sent a note to the ACHP that A/P allegedly found in A/V's garbage can after A/V left on August 13, 1995. The note said: "I'm going to miss everything. I hope I'm strong enough to carry this out. I love you anyway."

W#1

W#1, a physician, reported in the hospital records that A/V has been difficult to manage because of multiple physical complaints with little of a physical diagnosis to explain them. A/V had problems getting along in various AFHs and has alienated members of his/her family. W#1 views A/V as someone who overuses the medical system, especially by coming to the emergency room for inappropriate reasons.

W#2

W#2, a physician, reported in the hospital records that A/V showed no evidence of physical distress, was responsive to all questions and appeared alert. There was no evidence of any thought disorganization and nothing to suggest anything of a psychotic nature. A/V's mood was cautious because s/he was worried about where s/he would be living, however s/he was not hopeless. A/V focused primarily on complaints about people in his/her life within the family and those taking care of him/her. A/V scored on the mini-mental assessment in the unimpaired range. A/V had mild suspiciousness about people taking things from him/her, but there was no overall delusional system. A/V was not agitated during the interview, and her affect was broad.

W#4

W#4, a county employee, was called by W#3 because A/P refused to take A/V back into his/her AFH. W#4 talked with A/P who stated that A/V had been chronically disruptive during the 6 years A/V has lived in the AFH. A/P said that A/V is crazy and needs to be admitted for a psychological evaluation. A/P stated to W#4: "I can't stand it one more minute . . . A/V is too demanding, always on the phone, and insulting other residents."

W#5

W#5, an AFH operator, stated that since A/V has returned to his/her AFH, s/he has not been argumentative, combative or agitated. A/V is somewhat demanding in his/her needs. W#5 also stated that A/V was not argumentative or combative when A/V lived in W#5's AFH for three weeks in June 1995.

W#6

W#6, A/V's relative, stated on August 17, 1995 that s/he had been out to dinner with A/V and other family members on August 13, 1995. W#6 then took A/V home to A/P's AFH and then went home. Shortly afterwards W#6 was called by A/P telling W#6 that A/V was combative and needed to go to the hospital. There were no paramedics at A/P's AFH when W#6 left the AFH. A/V exhibited no change in behavior while with family members at the restaurant; s/he gave money to at least one family member and left a tip.

SWORN AFFIDAVIT OF W#6

On October 12, 1995, W#6 signed a notarized affidavit that had been written for him/her by A/P. W#6 believes the allegation that A/P had been withholding food from and not taking care of A/V is false, because it is W#6's opinion that A/P has taken good care of A/V. W#6 also states that s/he spoke with Complainant #1 while Complainant #1 was at the scene. Finally, W#6 asserts that since August 13, 1995, Aging Services has moved A/V five times.

--Investigator's Observations: W#6 does not have first hand knowledge of the events of August 13, 1995 as s/he was not at the home when they occurred; his/her knowledge comes from what s/he was told by A/P. A/V has been moved once since being placed in the AFH of W#5, and this move was to another AFH operated by W#5.

W#7

W#7, A/V's relative, said A/V was very difficult and had lived in several AFHs and had caused problems or wanted to leave.

W#8

W#8, a resident of A/P's AFH, stated that A/V had been argumentative in the last few days before leaving A/P's AFH, and s/he was glad A/V went to another AFH. W#8 said that s/he had not observed A/V being combative and that s/he never saw A/V hit anyone. S/he said A/V was difficult when s/he shared a room with A/V, and s/he had to be careful not to upset A/V.

W#9

W#9, a resident of A/P's AFH who is alert but confused, stated that s/he had seen A/V in the past give someone a bloody nose, but did not see A/V do anything to A/P or a caregiver on August 13, 1995.

W#13

W#13, a county employee, received a message from W#4 stating that A/V was admitted to Providence Hospital on August 13, 1995 after a dispute with A/P. A/P refused to accept A/V back into A/P's AFH, and A/V refused to go back. A/P stated to W#13 that A/P was knee deep in protective service complaints and what's another complaint, implying that A/P would not take A/V back even if it meant there would be another complaint and resulting protective service investigation. Family members contacted refused to take A/V home with them.

W#14

W#14, A/V's relative, has talked with A/V regularly on the telephone. When questioned by W#11 (ACHP staff) s/he stated that there was no change in A/V since August 10, 1995 and that A/V has her moments. A/V is in and out, content and then unhappy. A/V spoke with W#14 in the hospital and then at W#5's AFH and A/V is very happy. A/V also said to W#14 that s/he had some of his/her moments with other residents but never spoke of physical confrontation.

W#17

W#17, a relative of one of A/P's AFH residents, has never seen any bad acts by A/V during W#17's visits to A/P's AFH. A/V was on his/her "best behavior." However, W#17 was told by a caregiver whom W#17 could not identify that A/V slapped the caregiver and that A/V threw food at W#17's relative. W#17 also was told by A/P that A/P separated A/V and W#17's relative for 2 meals a day to avoid friction between them.

W#18

W#18 arrived at A/P's AFH on August 13, 1995, following the 9-1-1 call. S/he spoke with both A/P and A/V. W#18 stated that A/P told him/her: A/V was violent, A/V hit A/P, A/V wanted to commit suicide. W#18 stated that A/P was very agitated and was crying. A/P then called A/V's relative, and became very angry during this conversation and stopped crying.

W#18 stated that A/V told him/her: A/V had an argument with A/P, A/P was restricting food to A/V and another resident, A/P was abusive toward A/V. A/V was calm when W#18 arrived at the AFH. W#18 stated that a fellow employee of W#18 spoke with A/V to determine whether A/V was mentally sound, and found that A/V seemed oriented and "with it." W#18 had no way to tell whether food was being withheld from A/V.

W#18 did not see any other caregivers present in the home, and did not see any cuts or bruises on A/P. There was no medical reason for the 9-1-1 call, and A/V was taken from the AFH at A/V's request (since there was no medical reason for the call, A/V would not have been taken from the home otherwise).

W#18 stated that since this incident, A/P has called W#18's employer/enforcement agency many times, insisting that a report was written and that A/P wanted to see the report. In fact, no report was written because there was no medical reason for the 9-1-1 call.

It is W#18's personal opinion that A/P calls 9-1-1 to get residents out of the AFH that A/P does not want to deal with.

SWORN AFFIDAVIT OF W#19

On September 27, 1995, W#19 signed a notarized affidavit that had been written for him/her by A/P. In the affidavit, W#19 stated that A/V was agitated, argumentative, and a disruptive influence to the home after two ACHP staff members visited the home on August 18, 1995. W#19 also stated that A/V hit W#19 in the stomach and face with her fist, causing a bloody nose. The affidavit is not clear, but it appears that the date the alleged assault on W#19 occurred was August 18, 1995, the same date that the two ACHP staff

members visited A/P's AFH.

The ACHP has been unable to interview W#19 because investigators have been unable to obtain his/her phone number or address from A/P or other sources.

--Investigator's Observations: A/V left A/P's AFH for the last time on August 13, 1995. Therefore, this affidavit is not credible.

MEDICAL RECORDS

Mount Hood Hospital

A/V was admitted to the hospital the following times:

7/95:	Fell while trying to use the commode
9/94:	Motor Vehicle Accident
1/94:	ER Medical
6/92:	Fell off commode
1/92:	ER Medical
7/91:	Fell getting up from a chair

Providence Hospital

A/V was admitted the following times:

8/95: above described incident

Previous admissions were in 1988 and 1989

INVESTIGATOR'S OBSERVATIONS

This investigator talked with and observed all residents who were in the AFH on August 18, 1995. There was no visible evidence of bruising on the arms, legs, or facial area of the residents.

FINDINGS OF FACT

- 1 - There was no way for those who responded to the 9-1-1 call to determine whether A/P had withheld food from A/V or any other resident (W#18).
- 2 - A/V had problems getting along in various AFHs (W#1, W#7).
- 3 - A/V was argumentative on occasion with the AFH residents (W#8, A/P).
- 4 - A/P told several people that A/V caused problems in A/P's AFH (W#1, W#7, W#8, W#17, W#18).
- 5 - While emergency personnel were at A/P's AFH following the 9-1-1 call:
 - A/V was very calm, oriented, and "with it"
 - A/P was agitated and crying, and then became angry and stopped crying following a phone call to A/V's relative (W#18).
- 6 - Emergency personnel did not observe any visible cuts, bruises, or a bloody nose on A/P; nor did they observe any other caregivers or employees in the home (W#18).
- 7 - There was no medical reason for A/P's 9-1-1 call of August 13, 1995 (W#18, Complainant #2).
- 8 - A/V was taken to the hospital at A/V's request (W#18, Complainant #1, Complainant #2).
- 9 - A/V was calm and cooperative in the hospital on August 13, 1995, and showed no evidence of agitation, combativeness, or mental instability (W#2, W#3).
- 10 - A/P refused to take A/V back to A/P's AFH following the 9-1-1 call of August 13, 1995 (A/P, W#3, W#4, W#13).

ALLEGATION #1 POTENTIAL VIOLATION: NEGLECT

RESIDENTS' BILL OF RIGHTS 890-020-415(e)

A/P was withholding food and not providing care for A/V.

UNABLE TO SUBSTANTIATE

ALLEGATION #2 POTENTIAL VIOLATION: ABUSE BY RESIDENT

RESIDENTS' RIGHTS 890-020-410(f)

A/P believed and reported that A/V might abuse the other residents, but failed to prevent this abuse.

SUBSTANTIATED

ALLEGATION #3 POTENTIAL VIOLATION

MCAR 890-020-445(b) and (c)

A/P called 9-1-1, falsely claiming that A/V was abusive and combative toward other residents on August 13, 1995, as a way to evict A/V.

SUBSTANTIATED

Category 10

Log # A950827

Type of Home

AFH X
SDSD

R&B
MED DD

Care Home Address

19390 N.E. Multnomah Court

666-9121

Street Address

Portland

OR

97230

City

State

Zip

Operator's Name

Dianna Roberts

Operator's full name

Manager's Name

Resident Manager's full name

Narrative: Action taken and findings (include dates and times-do not use names)

FINDINGS: (Check appropriate box and provide comments if needed.)

- ☒ 01 Statute or rule violation evident
☐ 02 No statute or rule violation 2,3
☒ 03 Unable to determine if violation occurred 1

ACTION OR RECOMMENDATION: (Check appropriate box(es).)

- ☒ 01 Revisit date: _____
☐ 02 Referred to: a. _____ b. _____ c. _____
☐ 03 Decertification
☒ 04 License revocation
☐ 05 Civil penalty
☐ 06 Administrative conference
☐ 07 Letter of _____ conditions and/or _____ reprimand
☐ 08 Date investigation closed: _____

Report filed By (signature): _____ Date 11/22/95

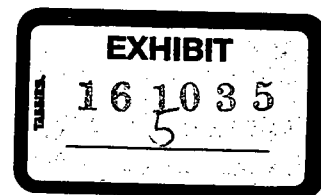
Amelia Roth
SIGNATURE

Lea Notified: ☐ Yes Date: _____ Time: _____ ☒ No

2/28/96 M.G.
CATEGORY: 10

COMPLAINT FORM

LOG # 60386



OPERATOR'S NAME: Dianna Roberts		PHONE# 666-9121	METHOD OF CONTACT
ADDRESS: 19390 N.E. Multnomah Court Portland OR 97230		DATE/TIME RECEIVED 7/20/95	RECEIVED BY: A. Potts
DATE/TIME OF INCIDENT: Ongoing	REFERRED TO: A. Potts	DATE INVESTIGATED 8/10/95	INVESTIGATION TIME

DESCRIPTION OF PROBLEM: (who, what, when, where) DO NOT USE NAMES.

ALLEGATION #1 POTENTIAL VIOLATION: PHYSICAL ABUSE

RESIDENTS' RIGHTS 890-020-410(f)

A/P "booted" A/V, who is paralyzed on his/her left side due to a stroke, with his/her knee and pushed A/V away saying "You want to walk?", when A/V was walking down the hallway. This was just before A/V moved to a new AFH, and A/P knew that A/V had planned to move.

ALLEGATION #2 POTENTIAL VIOLATION: FINANCIAL EXPLOITATION

RESIDENTS' RIGHTS 890-020-410(f)

A/P bought A/V four sweatsuits over time, while A/V was a resident at A/P's AFH. A/P always took \$20 from A/V and never returned the change or a receipt. A/V says s/he saw the same brand sweatsuit in a national catalogue for \$12.95.

ALLEGATION #3 POTENTIAL VIOLATION: PUNISHMENT, RETALIATION

RESIDENTS' RIGHTS 890-020-410(f)

RESIDENTS' BILL OF RIGHTS 890-020-415(s)

A/P retaliated against A/V by taking A/V's electric mattress pad and quilt and refusing to return them, because an Ombudsman previously visited A/V.

ALLEGATION #4 POTENTIAL VIOLATION: CAREGIVER

MCAR 890-020-230(e)

A/P is frequently gone, leaving the residents with substitute caregivers. There is no evidence that the substitute caregivers submitted criminal record check forms before beginning work in A/P's AFH, as required by ACHP rules.

ALLEGATION #5 POTENTIAL VIOLATION: EMOTIONAL ABUSE

RESIDENTS' RIGHTS 890-020-410(f)

A/V says that A/P is so hard on caregivers that the caregivers soon leave, and this upsets A/V.

Category (10)

Log # 60386

OPERATOR'S NAME:		PHONE#	METHOD OF CONTACT
ADDRESS:		DATE/TIME RECEIVED	RECEIVED BY:
DATE/TIME OF INCIDENT:	REFERRED TO:	DATE INVESTIGATED	INVESTIGATION TIME
<p>DESCRIPTION OF PROBLEM: (who, what, when, where) DO <u>NOT</u> USE NAMES.</p> <p>ALLEGATION #6 POTENTIAL VIOLATION: NEGLECT RESIDENTS' RIGHTS 890-020-415(d) The temperature is always cold, and A/P had a sign on the thermostat that states that the heat should not exceed 41 degrees.</p> <p>ALLEGATION #7 POTENTIAL VIOLATION: SANITATION MCAR 890-020-820(e) A/P holds the dog while cooking and the cat walks on the kitchen counter top.</p> <p>ALLEGATION #8 POTENTIAL VIOLATION: EMOTIONAL ABUSE RESIDENTS' RIGHTS 890-020-410(f) A/V said that A/P once slapped a caregiver, which upset A/V.</p>			
Category (10)		Log # 60386	

COMPLAINANT

On July 20, 1995, the Complainant and W#1 visited A/V for 3 hours at W#2's AFH. A/V had several concerns, which are expressed below in separate allegations. During the conversation, A/V expressed fear about retaliation and, in A/V's opinion, that A/P was not honest.

=====

ALLEGATION #1 POTENTIAL VIOLATION: ABUSE

RESIDENTS RIGHTS 890-020-410f

A/P "booted" A/V, who is paralyzed on his/her left side due to a stroke, with his/her knee and pushed A/V away saying "you want to walk?", when A/V was walking down the hallway. This was just before A/V moved to a new AFH, and A/P knew that A/V had planned to move.

STATEMENTS OF WITNESSES

COMPLAINANT and W#1

The complainant and W#1 stated that A/V told them that A/P booted him/her when s/he was walking down the hallway saying "you want to walk". A/V stated that this was just before s/he moved to W#2's adult care home. Neither Complainant nor W#1 has first hand knowledge of this incident.

A/V

A/V confirmed this information when interviewed by this investigator on August 10 and August 18, 1995. A/V appeared reluctant to talk about this on August 10, 1995 while s/he was still at A/P's AFH.

A/P

A/P was asked by this investigator about the possibility of A/P booting A/V while s/he was walking down the hall in late May or June. A/P replied "I never booted, kicked or shoved A/V. Period, ever."

W#3

W#3, who is alert and oriented, stated that s/he had not seen A/P push or hit any of the residents.

W#17

W#17, a county employee, stated that A/P was very upset that A/V moved out of A/P's AFH, and made numerous phone calls to the ACHP and Aging Services complaining about the move.

FINDINGS OF FACT

1 - Only A/V and A/P have first hand knowledge of this incident. A/V states that it occurred, and told several people that it occurred. A/P states that it did not occur.

ALLEGATION #1 POTENTIAL VIOLATION: ABUSE

RESIDENTS RIGHTS 890-020-410f

A/P "booted" A/V, who is paralyzed on his/her left side due to a stroke, with his/her knee and pushed A/V away saying "you want to walk?", when A/V was walking down the hallway. This was just before A/V moved to a new AFH, and A/P knew that A/V planned to move.

UNABLE TO SUBSTANTIATE

ALLEGATION #2 POTENTIAL VIOLATION: FINANCIAL EXPLOITATION
RESIDENTS' RIGHTS 890-020-410f

A/P bought A/V 4 sweatsuits over time, while A/V was a resident at A/P's AFH. A/P always took \$20 from A/V and never returned the change or a receipt. A/V says s/he saw the same brand sweatsuit in a national catalogue for \$12.95.

STATEMENTS OF WITNESSES

COMPLAINANT and W#1

Complainant and W#1, in their interview with A/V, were told about A/P buying 4 sweatsuits while A/V was in the AFH and that A/V never returned the change or a receipt. W#1 stated that A/V had a very good memory in that s/he had seen W#1 almost a year ago and s/he remembered his/her name and telephone number. Neither Complainant nor W#1 has direct knowledge of the purchases at issue.

A/P

This investigator asked A/P about the sweatsuits. A/P replied:

"I have bought all of, every single one of those sweats, probably 20 of them, and returned his/her change. They're on sale, \$6.99 on sale, which is when I purchased them for him/her, each, a piece, so that's about \$14.00 for a pair or set. We have never exchanged receipts or signatures, you know, the receipts are with the pants, but, W#6 (ASD personnel) advised me I should."

A/V

A/V, when interviewed, confirmed Complainant's statement. This investigator interviewed A/V about a year ago on a previous complaint and s/he was at that time concerned about not receiving change from purchases that A/P made for him/her. A/V's story was consistent to this investigator over time.

W#4

W#4 stated that A/V would put money in different packets and forget that s/he had it. W#4 also said that A/V had several instances where she could not find money and it was accounted for later. W#4 had no direct knowledge of the purchases at issue.

W#5

W#5 verified W#4's statement. W#5 also had no direct knowledge of the purchases at issue.

FINDINGS OF FACT

- 1 - A/V gave A/P money to purchase items for A/V (A/V, A/P).
- 2 - A/V's complaints about not receiving receipts or change from purchases made for A/V by A/P were consistent over time (A/V, Investigator).
- 3 - A/V has occasionally had trouble keeping track of her money (W#4, W#5).
- 4 - Only A/V and A/P have direct knowledge of the purchases at issue. A/V stated that s/he did not receive change or a receipt, and A/P stated that s/he returned change and the receipt.

ALLEGATION #2 POTENTIAL VIOLATION: FINANCIAL EXPLOITATION RESIDENTS' RIGHTS 890-020-410f

A/P bought A/V 4 sweatsuits over time, while A/V was a resident at A/P's AFH. A/V always took \$20 from A/V and never returned the change or a receipt. A/V says s/he saw the same brand sweatsuit in a national catalogue for \$12.95.
UNABLE TO SUBSTANTIATE

ALLEGATION #3 POTENTIAL VIOLATION: PUNISHMENT, RETALIATION
RESIDENTS' RIGHTS 890-020-410f
RESIDENTS' BILL OF RIGHTS 890-020-415s

A/P retaliated against A/V by taking A/V's electric mattress pad and quilt and refusing to return them, because an Ombudsman previously visited A/V.

STATEMENTS OF WITNESSES

COMPLAINANT and W#1

A/V stated to Complainant and W#1 that A/P had taken A/V's mattress pad and quilt, and refused to return them. Complainant and W#1 have no direct knowledge of whether any of A/V's bedding was removed by A/P.

A/P

A/P was asked by this investigator if A/P retaliated by taking A/V's mattress pad and quilt and refusing to return them, because an Ombudsman visited A/V. A/P replied:

"No, its an electric mattress pad and its on the bed, and it has been for about 3 years, a mattress pad, never been removed. I've never even washed it."

A/P did not address whether s/he removed the quilt.

A/V

A/V did not discuss being cold or his/her mattress pad when visited on August 10, 1995 by this investigator and W#8. However, A/V has discussed with this investigator on several past visits about A/V being cold and A/P taking away his/her blankets if A/V did not cooperate with A/P.

W#3

When this investigator previously visited A/V in A/P's AFH, this investigator also talked with W#3. On one of these visits, in this investigator's presence, W#3 conferred with A/V about A/V's past statement that A/P took A/V's blanket.

W#4

W#4 stated to this investigator on August 18, 1995 that s/he believed A/P had removed the mattress pad for the summer.

FINDINGS OF FACT

- 1 - A/P has, in the past, removed the mattress pad from A/V's bed (A/V, W#4, W#3).
- 2 - Only A/P and A/V have direct knowledge of this incident. A/P stated that she never removed the pad, but did not comment on removing the quilt. A/V stated that A/P did remove the pad and quilt.

ALLEGATION #3 POTENTIAL VIOLATION: PUNISHMENT, RETALIATION
RESIDENTS' RIGHTS 890-020-410f
RESIDENTS' BILL OF RIGHTS 890-020-415s

A/P retaliated against A/V by taking A/V's electric mattress pad and quilt and refusing to return them, because an Ombudsman previously visited A/V.
UNABLE TO SUBSTANTIATE

ALLEGATION #4 POTENTIAL VIOLATION: CAREGIVER
MCAR 890-020-230e

A/P is frequently gone, leaving the residents with substitute caregivers. There is no evidence that the substitute caregivers submitted criminal record check forms before beginning work in A/P's AFH, as required by ACHP rules.

STATEMENTS OF WITNESSES

COMPLAINANT and W#1

During Complainant and W#1's visit with A/V, s/he stated that A/P frequently left the residents with overnight caregivers, and s/he questioned if the caregivers were certified.

A/P

This investigator asked A/P if s/he called in his/her substitute caregivers. A/P replied: "I've done criminal reports." A/P also stated that presently W#10 was working for him/her. A/P did not name other caregivers who worked in his/her AFH, and did not deny leaving the residents with substitute caregivers.

A/V

When this investigator visited A/V on 8/10/95, s/he stated that W#9 was working in the house during the day in addition to W#10. A/V was not able to name any other caregivers who worked in the AFH.

A/P's 1995 LICENSURE CHECKLIST REPORT

All caregivers in the Report, including the housekeeper, are listed as having criminal record checks, with the exception of W#9.

CRIMINAL RECORD CHECK FORM

A form for W#9 was received in the ACHP office on Monday, August 14, 1995; payment was not included with the form. The form was faxed to Aging Services on the afternoon of Friday, August 11, 1995.

SWORN AFFIDAVIT OF W#9

In October 1995, A/P mailed to the ACHP an affidavit of W#9, which was dated September 27, 1995. In the affidavit, W#9 stated that s/he "worked for [A/P] from approximately July 20, 1995 through August 20, 1995 in [A/P's] adult foster care home."

FINDINGS OF FACT

1 - W#9 began working in A/P's AFH on or about July 20, 1995 (Sworn Affidavit of W#9).

2 - W#9's criminal record check form was faxed to Aging Services on August 11, 1995, and received in the ACHP office on August 14, 1995 (ACHP records)

ALLEGATION #4 POTENTIAL VIOLATION: CAREGIVER

MCAR 890-020-230e

A/P is frequently gone, leaving the residents with substitute caregivers. There is no evidence that the substitute caregivers submitted criminal record check forms before beginning work in A/P's AFH, as required by ACHP rules.

SUBSTANTIATED

ALLEGATION #5 POTENTIAL VIOLATION: EMOTIONAL ABUSE
RESIDENTS' RIGHTS 890-020-410F

A/V says that A/P is so hard on the caregivers that the caregivers soon leave, and this upsets A/V.

STATEMENTS OF WITNESSES

COMPLAINANT AND W#1

During the visit with W#1 and complainant, A/V stated that A/P upsets the caregivers so that they soon leave.

INVESTIGATOR'S OBSERVATIONS

ACHP records show that A/P has had at least 31 caregivers working in his/her AFH since it opened in 1985.

ACHP RECORDS

In the fall of 1993, the ACHP program manager had an administrative conference with A/P. Issues discussed included the high turnover in caregivers at A/P's AFH, and the resulting hardship on the residents caused by the high turnover. At that conference, A/P promised to do better.

In addition, seven former caregivers have filed complaints with the ACHP about A/P's AFH. All of these complaints related to A/P's poor treatment of his/her residents and caregivers.

A/P

On October 17, 1995, A/P told this investigator and W#8 that there were several reasons for her high caregiver turnover. First, because ACHP staff members have visited her house many times this year. Second, because A/P has high expectations. Third, many just quit.

W#11

W#11 stated that s/he quit his/her job as a caregiver because s/he did not like the way A/P treated the residents, and because s/he thought that A/P was extremely emotionally abusive. A/P also argued and was a difficult person to work for.

W#12

W#12, a former caregiver, was concerned with the way A/P treated the residents, and the way W#12 was treated when s/he quit working in A/P's AFH. W#12 found A/P to be cold, unsympathetic, and demanding; and that A/P intimidated both caregivers and residents. When A/P would enter a room, everyone would freeze up if they were laughing because they did not know what kind of mood A/P was in and were afraid of A/P's response if s/he was in a bad mood.

W#13

W#13, a former caregiver, was concerned about the residents because W#13 thought A/P was too restrictive of the residents in requiring them to conform to set bedtimes, leaving residents alone, and other care issues.

W#14

W#14, a former caregiver, complained of inadequate food for the residents, an inability to collect his/her wages from A/P, and limited activities for the residents.

W#15

W#15, a former caregiver, stated that A/P slapped him/her on the arm and as a result, W#15 quit working for A/P.

W#16

W#16, a former caregiver, filed a complaint with the ACHP alleging several violations of residents' rights.

FINDINGS OF FACT

- 1 - A/P has had at least 31 caregivers since his/her AFH opened in 1985 (ACHP records).
- 2 - At an administrative conference with the ACHP program manager in 1993, A/P acknowledged that s/he had a problem with high caregiver turnover (ACHP records).
- 3 - Seven of A/P's caregivers have filed complaints with the ACHP, three in the past year and a half (ACHP records).
- 4 - The way that A/P treated the caregivers contributed to their leaving A/P's employment (W#11, W#12, A/V, ACHP records).

ALLEGATION #5 POTENTIAL VIOLATION: EMOTIONAL ABUSE
RESIDENTS RIGHTS 890-020-410F

A/V says that A/P is so hard on the caregivers that the caregivers soon leave, and this upsets A/V.
SUBSTANTIATED

ALLEGATION #6 POTENTIAL VIOLATION: NEGLECT
RESIDENTS' RIGHTS 890-020-415D

The temperature is always cold, and A/P had a sign on the thermostat that states that the heat should not exceed 41 degrees.

STATEMENTS OF WITNESSES

COMPLAINANT AND W#1

A/V stated to W#1 and the complainant that it was always cold, and there was a sign on the thermostat during their visit on July 6, 1995 which said that the heat should not exceed 41 degrees. Neither Complainant nor W#1 saw this sign during their visit.

INVESTIGATOR'S OBSERVATIONS

This investigator has been to A/P's AFH several times and has never felt cold. In most cases, this investigator felt it was too hot in A/V's room. During investigator's visit to A/V at A/P's AFH on August 10, 1995, A/V's room was very warm. During investigator's visit to A/V at W#2's AFH on August 18, 1995, A/V had requested to have the portable heater on and the room was extremely warm. This investigator has never seen this sign.

W#2

W#2, during this investigator's visit on August 18, 1995, was very concerned about A/V because s/he is always cold and wants the heat on all the time.

A/P

During this investigator's visit of August 10, 1995, A/P stated:

"It's 70, usually hot in here, 72 to 73. A/V's usually cold, because of his/her circulation that's why I have the electric mattress pad, but it's usually very hot. A/V is cold, the other two residents are always hot. They're warm blooded, but we generally, even at 72 we have to keep blankets on one of the other residents and A/V because of their circulation problems with congestive heart failure."

FINDINGS OF FACT

- 1 - A/V is always cold, even when the room feels warm to others (A/P, W#2).
- 2 - A/V has congestive heart failure, with resulting poor circulation (A/V's medical records).
- 3 - A/P's house has always been warm when investigator visited (investigator).

ALLEGATION #6 POTENTIAL VIOLATION: NEGLECT

RESIDENTS' RIGHTS 890-020-415D

The temperature is always cold, and A/P had a sign on the thermostat that states that the heat should not exceed 41 degrees.

NOT SUBSTANTIATED

ALLEGATION #7 POTENTIAL VIOLATION: SANITATION
890-020-820E

A/P holds the dog while cooking, and the cat walks on the kitchen counter top.

STATEMENTS OF WITNESSES

COMPLAINANT and W#1

During the visit with A/V, A/V told W#1 and the Complainant that s/he was very upset with A/P's animals. S/he stated that A/P held the dog while cooking and the cat walked on the counter top. Complainant and W#1 have no direct knowledge of whether this is true.

A/P

A/P stated that s/he did not hold the dog while cooking and the cat does not walk on the counter top.

W#3

W#3, a resident, has not observed A/P holding the dog in the kitchen. W#3 made no statement as to whether the cat walks on the counter top.

A/V

Stated to this investigator and W#8 during a visit to A/P's AFH on August 10, 1995 that the cat walks on the kitchen counter and once walked through two pies.

FINDINGS OF FACT

1 - There were contradictory and inconclusive statements from residents, A/P, and A/V on these allegations.

ALLEGATION #7 POTENTIAL VIOLATION: SANITATION

890-020-820E

A/P holds the dog while cooking and the cat walks on the kitchen counter top.

UNABLE TO SUBSTANTIATE

ALLEGATION #8 POTENTIAL VIOLATION: EMOTIONAL ABUSE
RESIDENTS' RIGHTS 890-020-410F

A/V said A/P once slapped a caregiver, which upset A/V.

STATEMENTS OF WITNESSES

COMPLAINANT AND W#1

A/V, during his/her visit with W#1 and the Complainant, stated that A/P once slapped a caregiver. Complainant and W#1 have never seen A/P slap a caregiver.

A/P

On August 10, 1995, this investigator asked A/P: "Did you slap a caregiver?" A/P stated: "I never slapped a caregiver, never slapped a caregiver. Is this in the past or is that present?"

This investigator answered: "This is in the past but there's no date." A/P replied: "I never slapped a caregiver ever, ever."

A/V

On August 10, 1995, A/V stated to this investigator that A/P slapped a caregiver a while ago, but was not specific about the time it occurred or who the caregiver was.

ACHP RECORDS

One of A/P's caregivers quit in 1992, claiming s/he had been slapped on his/her arm by A/P. A/P told an ACHP staff member that s/he did not slap the caregiver, but s/he did tap the caregiver on the arm. The caregiver complained about this to the ACHP, but the incident was not investigated as a complaint.

FINDINGS OF FACT

1 - One caregiver complained to the ACHP that s/he was slapped by A/P, and then quit his/her caregiver job. A/P's response was that A/P tapped the caregiver on the arm, but did not slap her (ACHP records).

ALLEGATION #8 POTENTIAL VIOLATION: EMOTIONAL ABUSE
RESIDENTS' RIGHTS 890-020-410F

A/V said A/P once slapped a caregiver, which upset A/V.
UNABLE TO SUBSTANTIATE

Category 10

Log # 60386

Type of Home AFH X R&B _____
 SDSD _____ MED _____ DD _____

Care Home Address 19390 N.E. Multnomah Court 666-9121
 Street Address
 Portland OR 97230
 City State Zip

Operator's Name Dianna Roberts
 Operator's full name

Manager's Name _____
 Resident Manager's full name

Narrative: Action taken and findings (include dates and times-do not use names)

FINDINGS: (Check appropriate box and provide comments if needed.)

☒ 01 Statute or rule violation evident 4,5
☒ 02 No statute or rule violation 6
☒ 03 Unable to determine if violation occurred 1,2,3,7,8

ACTION OR RECOMMENDATION: (Check appropriate box(es).)

☐ 01 Revisit date: _____
☐ 02 Referred to: a. _____ b. _____ c. _____
☐ 03 Decertification
☒ 04 License revocation
☐ 05 Civil penalty
☐ 06 Administrative conference
☐ 07 Letter of _____ conditions and/or _____ reprimand
☐ 08 Date investigation closed: _____

Report filed By (signature): _____ Date 11/23/95

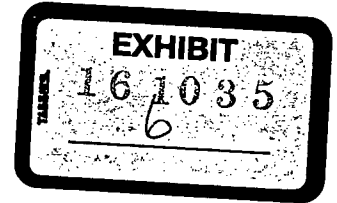
Donna Roberts, Multnomah Co. Manager
SIGNATURE

Lea Notified: ☐ Yes Date: _____ Time: _____ ☒ No

logged
11/22/95 mc.
CATEGORY: 10

COMPLAINT FORM

LOG # 62634



OPERATOR'S NAME: Dianna Roberts		PHONE# 666-9121	METHOD OF CONTACT
ADDRESS: 19390 N.E. Multnomah Court Portland OR 97230		DATE/TIME RECEIVED 6/15/95	RECEIVED BY: John Chabin
DATE/TIME OF INCIDENT: 6/15/95	REFERRED TO: A. Potts	DATE INVESTIGATED 6/19/95	INVESTIGATION TIME

DESCRIPTION OF PROBLEM: (who, what, when, where) DO NOT USE NAMES.

ALLEGATION: POTENTIAL RULE VIOLATION
RESIDENTS' BILL OF RIGHTS 890-020-415(h)

Complainant called A/P's AFH to talk to A/V, because A/V planned to move to Complainant's AFH. A/P hung up each time Complainant called.

ALLEGATION POTENTIAL RULE VIOLATION

RESIDENTS' BILL OF RIGHTS 890-020-415h

Complainant called A/P's AFH to talk with A/V, because A/V planned to move to Complainant's AFH. A/P hung up each time Complainant called.

STATEMENTS OF WITNESSES

COMPLAINANT

Complainant stated to W#1 that on June 8, 1995, s/he called A/V on A/P's AFH line and that A/P hung up on him/her three times. Complainant was trying to arrange with A/V for A/V to move to Complainant's AFH. The move was at A/V's request. It appeared that when A/P recognized Complainant's voice, A/P hung up. Complainant knew that A/V had his/her own phone number, but there was a mixup and Complainant did not have A/V's number. Before this incident, A/V had gone out to see Complainant's AFH.

On September 13, 1995, W#3 spoke with Complainant. Complainant stated that A/P called Complainant 1 or 2 months ago to apologize for W#3 getting cut off when Complainant called A/P; A/P explained that s/he was on his/her car phone and out-of-range. Complainant said s/he never showers in the daytime, only at night or early morning, so if A/P tried to call Complainant during the day, Complainant would not have been in the shower. Complainant is home almost all of the time, so if A/P called, it most likely was Complainant who answered the phone (when W#3 called Complainant, his/her adult son answered the phone). Complainant recalls that A/P called A/V 2 or 3 times after A/V moved into Complainant's AFH the first time. Whenever A/P called for A/V, Complainant would hold the phone out and say loudly to A/V that A/P is calling, do you want to speak with him/her. Complainant did this so A/P could hear what Complainant said, so that A/P would not think that Complainant was cutting A/P off if A/V did not want to talk to A/P. Complainant does not know A/P's cellular phone number.

A/P

This investigator and W#2 interviewed A/P on June 26, 1995 in the office of the ACHP at 9 a.m. This investigator asked A/P to explain the situation of why s/he hung up on Complainant on June 8, 1995 when s/he was trying to reach A/V. A/P said: "[A/V] has her own private telephone line and [Complainant] has that number, [s/he's] had it since December. I don't know why [Complainant] would call my number."

This investigator then asked if A/P remembered that incident. A/P replied that s/he:

"never hung up on [Complainant] that day, on the specific day it would have been the second

Thursday, I don't remember. I got two or three call that were hang ups. I was at a meeting. I was in Salem. I don't know why [s/he] would be calling me because [A/V had his/her] own line."

Later, at 11:52 a.m. the same day, this investigator received a message from A/P on investigator's voice mail. A/P said:

"I was really trying to explain this morning that if [Complainant] was trying to call me, [s/he] was getting me on my cellular telephone. We were getting disconnected because of out-of-range and everything. I was trying to call [Complainant] because I do have a date on my cellular phone that this was happening. I have tried to call [Complainant] but they just say [s/he is] in the shower and I haven't been able to explain this to [him/her]. I have nothing against [Complainant], but it is really a question of ethics of [him/her] trying to recruit my residents."

On October 17, 1995, A/P told this investigator and W#3 that AT&T Wireless Services is A/P's cellular phone service provider. On October 24, 1995, the ACHP received from A/P a copy of the listing of calls made to and from A/P's cellular phone on June 8, 1995.

W#1

W#1 stated that A/V was asking to move for a while and s/he was working with Complainant to see if s/he could facilitate this move. W#1 had contacted Complainant, and s/he was helping him/her with this placement.

W#3

W#3, a county employee, called A/P's home telephone number on October 31, 1995, and A/P stated that s/he answered the call on his/her cellular telephone.

AT&T WIRELESS SERVICES

AT&T's marketing brochure shows that Salem is in the middle of AT&T's local cellular calling area, for both analog and digital cellular service. An October 18, 1995 call by W#3 to AT&T's Customer Care Department confirmed this; and that a call made to an AT&T-served cellular phone that was located in Salem at the time of the call would not be cut off for being out-of-range.

GTE

GTE provides A/P's residential telephone service. On September 13, 1995, W#3 interviewed a GTE customer service representative. The representative stated that a call to a residential telephone can be forwarded to a cellular telephone.

FINDINGS OF FACT

- 1 - Complainant tried to call A/V at A/P's AFH on June 8, 1995, and was cut off each time s/he called. (Complainant, A/P).
- 2 - Complainant did not call A/P's cellular telephone, and does not know A/P's cellular telephone number (Complainant).
- 3 - AT&T Wireless Services provides A/P's cellular telephone service (A/P).
- 4 - Salem is in the middle of AT&T's local cellular calling area, whether for digital or analog service. (AT&T Wireless Services).
- 5 - A call placed to a cellular phone with AT&T service would not be cut off for being out-of-range, if the cellular phone was in Salem when it received the call (AT&T Wireless Services).
- 6 - Calls can be forwarded from residential telephones to cellular telephones, so that a person calling a residential number will reach a cellular telephone instead (GTE, W#3).
- 7 - A/P believed that Complainant was unethically trying to take A/P's residents away from A/P's AFH (A/P).

ALLEGATION POTENTIAL RULE VIOLATION

RESIDENTS' BILL OF RIGHTS 890-020-415h

Complainant called A/P's AFH to talk with A/V, because A/V planned to move to Complainant's AFH. A/P hung up each time Complainant called.

SUBSTANTIATED

Log # 62634

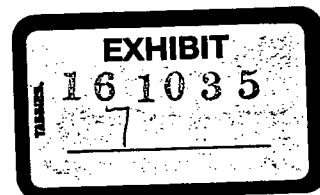
Narrative: Action taken and findings (include dates and times-do not use names)

Lea Notified: / / Yes Date: Time: // No

Longelin
8/22/95 m6.
CATEGORY: 10

COMPLAINT FORM

LOG # A950811



INFORMATION IN THIS SECTION IS NOT CONFIDENTIAL

OPERATOR'S NAME: Dianna Roberts		PHONE# 666-9121	METHOD OF CONTACT
ADDRESS: 19390 N.E. Multnomah Court Portland OR 97230		DATE/TIME RECEIVED 7/28/95	RECEIVED BY: A. Potts
DATE/TIME OF INCIDENT: 7/20/95	REFERRED TO: A. Potts	DATE INVESTIGATED 7/29/95	INVESTIGATION TIME

DESCRIPTION OF PROBLEM: (who, what, when, where) DO NOT USE NAMES.

ALLEGATION #1 POTENTIAL VIOLATION: NEGLECT

RESIDENTS' BILL OF RIGHTS 890-020-415(f)

A/V has a history of falls due to A/V's poor health and resulting weakness and balance problems, A/P is aware of A/V's history of falls and poor health, and A/P has not taken steps to prevent A/V from falling.

ALLEGATION #2 POTENTIAL VIOLATION: NEGLECT

RESIDENTS' BILL OF RIGHTS 890-020-415(f)

A/V's July 20, 1995 fall was caused by A/P's neglect.

ALLEGATION #3 POTENTIAL VIOLATIONS:

- a. MCAR 890-020-500(a): LACK OF PROMPT MEDICAL ASSESSMENT
- b. RESIDENTS' BILL OF RIGHTS 890-020-415(f): NEGLECT

A/P failed to report A/V's falls to A/V's primary medical provider for follow up.

ALLEGATION #4 POTENTIAL VIOLATIONS:

- a. MCAR 890-020-840(e) (H): FAILURE TO MONITOR RESIDENT'S NIGHT CARE NEEDS
- b. RESIDENTS' BILL OF RIGHTS 890-020-415(f): NEGLECT

A/P could not hear A/V call for assistance at night, and A/P did nothing to ensure that s/he could hear A/V call for assistance.

Category (10)

Log # A950811

COMPLAINANT

A/V was admitted to Mt. Hood Medical Center, after a reported fall in A/P's AFH on July 20, 1995.

1. Complainant was concerned because in her opinion, the description of the fall and the resulting injuries did not coincide, and this made the fall look suspicious.

2. Complainant also was concerned because A/P continually sends A/V to the Mt. Hood Medical Center, and this hospital was not a provider under A/V's medical plan.

3. Complainant had received a call from A/V's primary medical provider, and this doctor was concerned about the frequency of falls that A/V had; and that A/P failed to report the July 20, 1995 fall to the doctor for follow up.

=====

STATEMENTS OF WITNESSES

COMPLAINANT

Complainant stated that A/V was admitted to the hospital with contusions to soft tissue on his/her face and scalp. According to Complainant, A/V has been admitted to the hospital several times in the past for falls.

On August 14, 1995, Complainant was interviewed by W#2. Complainant stated that in his/her experience, one just doesn't see the type of injuries that A/V had resulting from a fall. Usually the injury from a fall is to one side or the other, but A/V had injuries to the front and back of his/her head and to both sides. Complainant stated s/he was surprised that A/V was in the hospital for 4 days following the fall, because A/V's HMO only authorizes a 23 hour observation admit.

On September 29, 1995, Complainant was again interviewed by W#2. Complainant stated that if a patient comes into the ER, sometimes the ER will call a patient's family/doctor/AFH provider to get medical information on the patient and sometimes they won't. It depends on the situation.

A/P

On July 26, 1995, this investigator and W#3 went to the AFH to see A/V. A/P answered the door and stated: "A/V is all bruised. I don't want you to think I hit her but s/he fell." A/P also stated that A/V fell in the bathroom and is always yelling for help at night.

On August 10, 1995, this investigator and W#2 again visited A/P's AFH, and asked A/P about A/V's alleged fall. A/P stated:

"I had a problem with [A/V] falling and going to the hospital at midnight. A/V was in [his/her] bathroom, using the bathroom at midnight and I called the

paramedics immediately. It was 12:01 a.m. on July 20th. If you ask [A/V], he/she'll tell you it was the middle of the day."

This investigator then asked: "Have there been any other instances of you sending [A/V] to Mt. Hood or any other hospitals?" A/P replied:

"[A/V has] been out there several times. I don't know if [s/he] has been to Mt. Hood every time but I've called the paramedics, at 74th, several times to assist with [A/V]. I don't know off the top of my head how many times [s/he's] been admitted at the hospital for that reason or transported for that reason. I would say there were times, in six years, several times that [s/he] was transported for falls. I'm talking about in the first few years that [A/V] came here [s/he] was out there several times but [s/he] hasn't been lately. Maybe once a year [s/he] goes out there."

"[A/V's] not confined in any way, [s/he] ambulates, ambulates around the house and with a walker and always uses the bathroom at night. We have a bedside commode but [s/he] doesn't use it. [S/he] prefers to go into the bathroom. And I don't think [s/he'd] want to be confined to a hospital bed with side rails just to protect [him/her] and that's the alternative."

"[Dr. Eubanks] was upset because [A/V] told them out at the emergency room that [Dr. Eubanks] was not [his/her] doctor anymore. So they did not contact [Dr. Eubanks]. [Dr. Eubanks] was kind of mad at me about that. But the emergency room did not even phone me for [A/V's] medical, you know, medications. This is the first time they've not phoned me to get history and medications. I was surprised."

A/V

A/V was interviewed on July 26, 1995 by this investigator, and was very bruised. A/V had bruises on the right side of his/her face, and complained of pain and that his/her head ached. A/V stated that s/he went to the bathroom at night. A/V yelled for help to go to the bathroom, but A/P did not respond to A/V (A/V thinks A/P was in his/her room and did not hear A/V), so A/V went into the bathroom alone and fell. A/V said [s/he] did not remember what happened, s/he just fell forward. A/V said that [his/her] family was not informed about this fall.

A/V was interviewed again on August 10, 1995, and stated that s/he has blackouts occasionally and maybe s/he fell during a blackout. A/V stated that s/he fell very hard, hit the front of her head against the wall, then fell backward and hit the back of her head, and also hit both of his/her sides. A/V stated that s/he is paralyzed on her left side due to a stroke, and has only one leg, arm and eye that work.

A/V's MEDICAL RECORDS OF THE JULY 20, 1995 FALL

A/V's diagnosis was a neck sprain and multiple soft tissue injuries. The ER History and Physical Examination states that A/V told ER personnel that W#1 was no longer A/V's doctor. However, the discharge papers state that A/V was to be transported from the hospital to W#1's office.

A/V's HOSPITAL ADMISSIONS

Mt. Hood Hospital admission records for A/V

7/95, fell while using commode

9/94, motor vehicle accident

1/94, ER Medical

6/92, fell off commode

1/92, ER Medical

7/91, fell while getting up from a chair

A/P's PROGRESS NOTES OF A/V

A/V had a fall for which she did not obtain medical treatment in January 1995. A/V took a medication (Paxil) which made him/her dizzy, and s/he fell as a result. A/P did not make a notation of the fall in the records; instead the contract nurse mentioned the fall in his/her write-up in the progress notes.

W#1

W#1 was interviewed by W#7 on September 7, 1995. A/P considered W#1 to be A/P's house doctor. W#1 stated that A/V is a hypochondriac, there are gaps in A/V's thought process, A/V can't make decisions, there is no continuity in what A/V says, and A/V never told W#1 about chest pains. W#1 was aware of A/V's chest pains, however, because s/he knew that A/V had seen a cardiologist in the past. W#1 was told by a Mt. Hood Medical Center employee that A/V stated that W#1 was not A/V's doctor.

W#4

W#4, a physician, was interviewed by W#2 on August 16, 1995. W#4 could not tell whether A/V's injuries were caused by a fall, or what kind of fall would have produced such injuries. S/he did not remember A/V's injuries being complex, and did not find A/V's medical history unusual. S/he stated that A/V was admitted to the hospital because A/V was in extreme pain and was therefore unable to perform the usual activities of daily living in her home.

W#5

W#5, A/V's relative, stated that s/he was informed of A/V's fall by A/P just after midnight on July 20, 1995, after A/P had called 9-1-1.

W#6

On August 11, 1995, W#2 spoke with W#6's nurse. The nurse stated that W#6 saw A/V in the hospital only as a consult to the ER doctor. W#6 thought A/V was weak, but did not need to be admitted. The nurse also stated that W#6 "does not want to get involved in this." The nurse does not know why W#6 was listed as the attending

physician, and signed as such, on the hospital forms for A/V's July 20, 1995 admission.

W#2 has tried to reach W#6 many times, but has not been able to get through on the phone line.

FINDINGS OF FACT

- 1 - A/V has a history of falls (A/V's medical records, A/P records).
- 2 - A/V has had at least 4 falls while living in A/P's AFH (A/V's medical records, A/P records).
- 3 - A/V is in a weakened condition because of heart disease and a stroke, and has poor balance because the stroke paralyzed her left side (A/V's medical records, A/P records).
- 4 - A/P is aware of A/V's physical limitations (A/P records).
- 5 - Despite being aware of A/V's limitations, and despite A/V's prior falls off the commode and while getting up from a chair, A/P did nothing to prevent future falls, such as: install an intercom so that A/P could hear A/V call for assistance, or give A/V notice to move.
- 6 - A/V was sent to Mt. Hood Medical Center for treatment on July 20, 1995, even though Mt. Hood is not a participant in A/V's medical plan (A/V's medical records).
- 7 - A/V was discharged from the hospital directly to W#1's office for a follow up visit (A/V's medical records).

ALLEGATION #1 POTENTIAL VIOLATION: NEGLECT

RESIDENTS' BILL OF RIGHTS 890-020-415(f)

A/V has a history of falls due to A/V's poor health and resulting weakness and balance problems, A/P is aware of A/V's history of falls and poor health, and A/P did not take steps to prevent A/V from falling.

SUBSTANTIATED

ALLEGATION #2 POTENTIAL VIOLATION: NEGLECT

RESIDENTS' BILL OF RIGHTS 890-020-415(f)

A/V's July 20, 1995 fall was caused by A/P's neglect.

SUBSTANTIATED

ALLEGATION #3 POTENTIAL VIOLATIONS:

a. MCAR 890-020-500(a): LACK OF PROMPT MEDICAL ASSESSMENT

b. RESIDENTS' BILL OF RIGHTS 890-020-415(f): NEGLECT

A/P failed to report A/V's falls to A/V's primary medical provider for follow up.

a. NOT SUBSTANTIATED

b. NOT SUBSTANTIATED

ALLEGATION #4 POTENTIAL VIOLATIONS:

a. MCAR 890-020-840(e) (H): FAILURE TO MONITOR RESIDENT'S
NIGHT CARE NEEDS

b. RESIDENTS' BILL OF RIGHTS 890-020-415(f): NEGLECT

A/P could not hear A/V call for assistance at night, and A/P did nothing to ensure that s/he could hear A/V call for assistance. As a result, A/V was injured when s/he fell while using the bathroom unattended at night.

a. SUBSTANTIATED

b. SUBSTANTIATED

Category 10

Log # A950811

Type of Home AFH X R&B _____
 SDS MED DD

Care Home Address 19390 N.E. Multnomah Court 666-9121
 Street Address
 Portland OR 97230
 City State Zip

Operator's Name Dianna Roberts
 Operator's full name

Manager's Name _____
 Resident Manager's full name

Narrative: Action taken and findings (include dates and times-do not use names)

FINDINGS: (Check appropriate box and provide comments if needed.)

- ☒ 01 Statute or rule violation evident _____
☒ 02 No statute or rule violation _____
☒ 03 Unable to determine if violation occurred _____

ACTION OR RECOMMENDATION: (Check appropriate box(es).)

- ☒ 01 Revisit date: _____
☒ 02 Referred to: a. _____ b. _____ c. _____
☒ 03 Decertification
☒ 04 License revocation
☒ 05 Civil penalty
☒ 06 Administrative conference
☒ 07 Letter of _____ conditions and/or _____ reprimand
☒ 08 Date investigation closed: _____

Report filed By (signature): _____ Date 11/22/95 ap

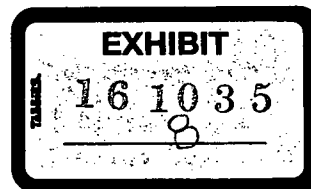
Annelle Roth Melvin C. Myer
 SIGNATURE

Lea Notified: ☒ Yes Date: _____ Time: _____ ☒ No

logged on 11/25/95 MG.
CATEGORY: 10

COMPLAINT FORM

LOG # A951110



INFORMATION IN THIS SECTION IS NOT CONFIDENTIAL

OPERATOR'S NAME: Dianna Roberts		PHONE# 666-9121	METHOD OF CONTACT
ADDRESS: 19390 N.E. Multnomah Court Portland OR 97230		DATE/TIME RECEIVED September 12, 1995	RECEIVED BY: A. Potts
DATE/TIME OF INCIDENT: Unknown	REFERRED TO: M. Maxwell	DATE INVESTIGATED September 20, 1995	INVESTIGATION TIME

DESCRIPTION OF PROBLEM: (who, what, when, where) DO NOT USE NAMES.

ALLEGATION 1 POTENTIAL VIOLATION: NEGLECT/LACK OF SUPERVISION
MCA 890-015-660(a)

Complainant was concerned that there is not enough supervision in A/P's AFH because W#1 told Complainant that A/V#1 threw food at A/V#2.

ALLEGATION 2 POTENTIAL VIOLATION: ABUSE
MCA 890-015-120(a)

Complainant was concerned because W#1 told Complainant that A/P allowed A/V#1 to hit A/V#3.

STATEMENTS OF WITNESSES

COMPLAINANT

W#1 called Complainant in August 1995 to discuss matters relating to A/V#2, who is W#1's relative and a resident of A/P's AFH. During this conversation, W#1 told Complainant about two incidents that W#1 had been told occurred at A/P's AFH. Complainant notified the ACHP of these two incidents on September 12, 1995.

W#1

W#1 was interviewed by W#2 (ACHP staff) on September 20, 1995. W#1 stated that A/V#3 told him/her about the two incidents. W#1 does not know the name of A/V#3, or when the two incidents occurred. W#1 did not see the two incidents occur him/herself. In addition, W#1 does not remember when A/V#3 told him/her about the two incidents.

With regard to the food throwing incident, A/V#3 told W#1 that A/V#1 threw food at A/V#2, and A/V#2 threw it back at A/V#1. W#1 thinks that A/V#3 may have told him/her about this incident a few days before W#1 spoke with Complainant in August.

With regard to the slapping incident, W#1 stated that A/V#3 told him/her that A/V#1 got up from the dining room table, walked around the table to where A/V#3 was, and then pulled A/V#3's hair back and slapped A/V#3's face.

W#1 also stated that to keep from having friction between A/V#1 and A/V#2, A/P separated them for 2 meals each day. W#1 thought that A/V#2 ate better that way.

W#1 is very satisfied with A/P's home. In his/her opinion: it is always clean; the food is good, and A/P serves a lot of fried chicken since that is what A/V#2 likes to eat; W#1 can visit at any time, even outside the posted visiting hours; A/P treats A/V#2 "like gold"; A/P buys things for A/V#2, including two very expensive motorized/elevating chairs; and A/P keeps A/V#2 cleaned up.

W#1 is concerned about what will happen to A/V#2 if A/P's AFH is closed, as W#1 doesn't think they will find another AFH as good as A/P's. Finally, W#1 believes that A/V#1 is causing all the problems in A/P's AFH and Complainant is trying to make it look like A/P's fault; however, whenever W#1 has been at the AFH, A/V#1 has always been on his/her "best behavior," and W#1 has never seen A/V#1 do anything bad.

Investigator's Observations: W#1's report is not credible because W#1 does not know the name of the person who allegedly reported these incidents to him/her, and because this report differs in every way from that given by W#3, below.

SWORN AFFIDAVIT OF W#3

On October 23, 1995, the ACHP received from A/P an affidavit, which had been written by A/P for W#3 to sign. W#3 signed the affidavit on September 27, 1995. In the affidavit, W#3 states that s/he is A/V#3, and that the slapping incident occurred as follows: while W#3 was bathing A/V#1 on August 18, 1995, A/V#1 hit W#3 in the stomach and face with his/her fist, causing W#3 to have a bloody nose. W#3 then states that s/he informed A/P, who immediately called 9-1-1 to have A/V#1 removed from the AFH. The affidavit does not discuss the food throwing incident.

--Investigator's Observations: this affidavit is not credible because the explanation given by W#3 is completely different from that given by W#1, and because W#3 alleges that the slapping incident occurred after A/V#1 had moved from A/P's AFH.

FINDINGS OF FACT

1 - The reports of W#1 and W#3 as to the slapping incident are completely inconsistent with each other, and therefore neither is credible.

2 - Based on witness reports, the ACHP cannot verify whether these two incidents occurred.

ALLEGATION 1 POTENTIAL VIOLATION: NEGLECT/LACK OF SUPERVISION

MCAR 890-015-6660(a)

Complainant was concerned that there is not enough supervision in A/P's AFH because W#1 told Complainant that A/V#1 threw food at A/V#2.

UNABLE TO SUBSTANTIATE

ALLEGATION 2 POTENTIAL VIOLATION: ABUSE

MCAR 890-015-120(a)

Complainant was concerned because W#1 told Complainant that A/P allowed A/V#1 to hit A/V#3.

UNABLE TO SUBSTANTIATE

Category 10

Log # A951110

Type of Home AFH X R&B
 SDSD MED DD

Care Home Address 19390 N.E. Multnomah Court 666-9121
 Street Address
 Portland OR 97230
 City State Zip

Operator's Name Dianna Roberts
 Operator's full name

Manager's Name
 Resident Manager's full name

Narrative: Action taken and findings (include dates and times-do not use names)

FINDINGS: (Check appropriate box and provide comments if needed.)

☐ 01 Statute or rule violation evident
☐ 02 No statute or rule violation
☐ 03 Unable to determine if violation occurred

ACTION OR RECOMMENDATION: (Check appropriate box(es).)

☐ 01 Revisit date: a. b. c.
☐ 02 Referred to: a. b. c.
☐ 03 Decertification
☒ 04 License revocation
☐ 05 Civil penalty
☐ 06 Administrative conference
☐ 07 Letter of conditions and/or reprimand
☐ 08 Date investigation closed:

Report filed By (signature): Date 4/22/95

Amette Poth, Melvin A. Myer
SIGNATURE

Lea Notified: ☐ Yes Date: Time: ☒ No



MULTNOMAH COUNTY OREGON

AGING SERVICES DIVISION (503) 248-3646
ADULT CARE HOME PROGRAM (503) 248-3000
FAX: (503) 306-5722
421 SW 5TH, ROOM 405
PORTLAND, OR 97204-2221

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN • CHAIR OF THE BOARD
DAN SALTZMAN • DISTRICT 1 COMMISSIONER
GARY HANSEN • DISTRICT 2 COMMISSIONER
TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

CERTIFIED MAIL

February 12, 1996

Ms. Dianna Roberts
19390 N.E. Multnomah Court
Portland, Oregon 97230

Dear Ms. Roberts:

The Adult Care Home Program has received another complaint against your home alleging the following:

1. Resident was not given needed care.
2. Resident was not given the proper diet.
3. Resident's visitor was denied access to your home.
4. Resident's mail was read by others without resident's permission.
5. You retaliated against a resident because you thought the resident had made a complaint against your adult care home.

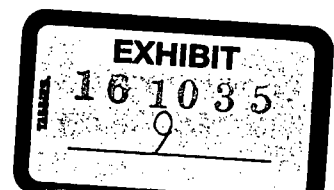
Our preliminary investigation indicates that the complaint is at least in part substantiated and that the resident may have been in serious danger due to lack of necessary care and supervision.

There are also indications that you falsely represented the care and services available in your adult care home to this resident.

During the investigation you refused Adult Care Home Program staff access to the records in your home and were extremely uncooperative, to the point that investigators had to call for police standby assist to finish their investigation. Your actions are in violation of Multnomah County Administrative Rule (MCAR) 890-020-260 (a).

In order to protect the health, safety and welfare of residents in your home the following condition is now placed on your license:

New admissions are suspended in your home until a final decision is received from any hearings and appeals on the revocation of your license to operate an adult care home.



The Adult Care Home Program has the authority to impose this condition on your license according to Multnomah County Licensing Ordinance 8.90.080, which states:

(A) The Director shall have the authority to...attach conditions to any license of an adult care home under the following circumstances...(2) where there exists a threat to the life, health, safety or welfare of any resident, (3) where there is reliable evidence of abuse, neglect or exploitation of any resident, and (4) when the owner or operator has failed to comply with the provisions of [the Ordinance]; with city and ordinances; with the rules and standards duly promulgated by the Director for an adult care home; or any other state or federal law or rule applicable or relevant to the health and safety of a resident.

This letter shall also serve as an amendment to the notice of revocation of your license. The issues raised in this most recent complaint and its investigation are additional reasons for the revocation of your license.

You may request a conference with Jean DeMaster, the program manager, regarding this decision. To do so, call me at 248-3000, extension 2624.

You also have a right to a hearing to appeal this decision. To do so send a written request for a hearing, stating your reasons for requesting the hearing, to the Adult Care Home Program, 421 S.W. Fifth St., Room 405, Portland, Oregon 97204. To request a hearing this office must receive your request no later than 20 days after you receive this letter. If you request a hearing but do not come to it, our files on the case would automatically become part of the case record for the purpose of proving a prima facie case.

Please call me if you have any questions.

Sincerely,

Mary M. Fassell

Mary M. Fassell, Sanction Specialist
Multnomah County Adult Care Home Program

c: Carole Isaman
Jean DeMaster
Catherine Gaetjens, County Counsel

CATEGORY: 10

COMPLAINT FORM

LOG # A960112

EXHIBIT

16 10 35

10

BILLING STATUS: MEDICAID AV3 PRIVATE AV1 & AV2

INFORMATION IN THIS SECTION IS NOT CONFIDENTIAL

OPERATOR'S NAME: Diana Roberts		PHONE# 666-9121	METHOD OF CONTACT unannounced visit
ADDRESS: 19390 NE Multnomah Ct. Portland, OR 97230		DATE/TIME RECEIVED 1/30/96	RECEIVED BY: Mary Gingell
DATE/TIME OF INCIDENT: ongoing	REFERRED TO: Pam Slaughter	DATE INVESTIGATED 2/1/96	INVESTIGATION TIME 1:30 pm

DESCRIPTION OF PROBLEM: (who, what, when, where) DO NOT USE NAMES.

Allegation 1 AP1 denied the AV1 the right to have Witness 2 visit AV1 at the Adult Care Home.

Potential violation of MCAR 890-020-410(c), Resident Rights

Allegation 2 AP1 reads the mail of the residents

Potential violation of MCAR 890-020-415(h), Resident Rights

Allegation 3 AP1 didn't provide the AV1 with AV1's special diet needs

Potential violation of MCAR 890-020-470(b), Special diets

Category (10)

Log # A960112

The statements of the witnesses are as follows:

AV1

The AV1 stated that she had been manipulated into moving into the AP1's Adult Care Home, and that once she was there, she realized that she had been lied to about the services available. The AV1 injured herself, and was being treated at a nursing facility. The AV1 decided that when she was well enough she would move to an Adult Care Home because that would be less expensive than living at her son's home and hiring a private caregiver.

The AV1 asked witness 2 for assistance in locating an Adult Care Home that could provide 24 hour care, because the AV1 had had at least 7 heart attacks and needed a caregiver to be available. A couple of days after witness 2 agreed to help locate an Adult Care Home for AV1, AP1 made a visit to the AV1 at the nursing facility.

The AP1 told the AV1 that she and witness 2 had gone over the AV1's needs and believed that the AV1 should move to the AP1's Adult Care Home. The AP1 brought a brochure listing the services offered at the Adult Care Home, a silk plant as a gift to the AV1, and was very persuasive. The AP1 convinced the AV1 that she would have no problem providing the AV1 with the complicated renal and diabetic diet the AV1 needed, and the brochure mentioned the same. The AV1 agreed to move into the Adult Care Home the following day.

Later, the AV1 learned from witness 2 that witness 2 never referred the AP1's home. Witness 2 had simply called the AP1 for information and had made it clear to the AP1 that she was just gathering information.

The AV1 stated that she moved into the AP1's home so quickly

because the AP1 presented her/him self as the referral that witness 2 decided upon. The AV1 believed that witness 2 had researched the AP1's home and then sent the AP1 over to set the move in date with the AV1.

The AV1 alleges that after she moved into the home, she discovered that the brochure promises services that are actually not available.

First of all, the house was not accessible in a practical way. AV1 stated that while the doorways were wide enough to accommodate her/his wheelchair, the carpeting on the floor was so deep that s/he could only wheel the chair around with extreme effort. It was also very difficult to walk with a walker for the same reason.

Secondly, the brochure mentions that the home offers low sodium and bland diets, as well as special diets for diabetics, and delicious and nutritious meals. AV1 stated that s/he explained her/his complicated and strict dietary needs to AP1 before s/he moved into the home and was assured that her/his meals would not be a problem. S/he states that on her/his third day of residence there, AP1 admitted that s/he could not manage the AV1's special diet needs. AP1 served food that AV1 could not have at nearly every meal. AV1 said that the meals were not balanced, and the portions were very meager.

AV1 said that s/he has had at least seven heart attacks, and needs 24 hour supervision. The brochure promises 24 hours supervision by a C.N.A. The AV1 had been in the home for a few days when s/he experienced chest pains symptomatic of a heart attack. S/he called for help and no one came. The pains eventually stopped. There was no one available. The AP1 was in her/his private quarters in the converted attached garage; her/his door was shut and locked and s/he could not hear the AV1.

On another evening the AV1 was visited by witness 1 at 8:20 p.m., which is after the house visiting hours. Witness

I rang the doorbell and knocked and even telephoned the home, but the AP1 never answered the phone or the door. Finally, the AV1 used her/his walker to go answer the door. The AV1 said that there is 24 hour care available during the weekends only. AP3 provides care day and night over the weekend. AP3 sleeps on a cot in the living room at night, and can hear when the AV1 calls for help.

The AV1 said that there were absolutely no activities offered other than sitting in a room watching television. The AV1 stated that everyone had to be in their room and have their lights out at 7 p.m.

The AV1 said that s/he wondered about how s/he would escape in a fire because s/he could only see a front door as an exit. S/he said AP2 promised her/his there would be a fire drill conducted shortly, but it did not happen.

AV1 is on a complicated no-liquids except water diet, and must have lots of water. S/he said that AP1 did not bring water to her/his and did not fill her/his humidifier. S/he had to get water herself using her/his walker to leave her/his room and walk to the bathroom. This was difficult and took a long time. The trips were frequent because s/he could only carry a little at a time and still maneuver the walker. The humidifier was destroyed after it was allowed to run dry.

The AV1 was visited by a consultant nurse once. The AV1 stated that the nurse came into her/his room unexpectedly one day, and asked the AV1 if s/he administered her own medication. The AV1 stated that s/he said yes. At that point, the nurse began to chat with the AV about the fact that like the AP1, the nurse operated a home, and chatted with the AV1 in a friendly way about what it was like to run a home. The nurse visited with the AV1 for 10 to 15 minutes, then left. The nurse didn't ask the AV1 about her/his dietary needs, dialysis, health, or doctor's information.

AV1 tried to explain her/his dietary needs to AP3 when s/he came

to work the weekend shift. AP3 told AV1 that AP1 did not have any records or information available concerning the needs of AV1.

AV1 left the home for a few hours to receive dialysis treatment. When s/he came back, there was a letter in her/his room from witness 2. A couple of days later, witness 2 called AV1 and said that s/he had received a letter from the AP1 that made some references to what was in the letter that witness 2 had sent to AV1. AV1 had not discussed the contents of the letter, so believes that AP1 must have gotten the information by reading her/his mail while s/he was at the dialysis center.

AV1 stated that witness 2 arranged for an associate to give her/him an electric chair. When the chair came, (exhibit G, G1) AP1 gave a receipt as if a tax deductible donation was being made for her, and then s/he put the chair in someone else's room. AV1 stated that s/he lived in the home for less than a month. The AV1 could not eat the food served there, and was treated with contempt when s/he requested the food s/he needed. The AV1 moved out of the AP1's Adult Care Home because s/he was afraid that her/his health would suffer greatly if s/he stayed any longer.

Statements of AV2:

AV2 was interviewed by witness 6. S/he said that the meals are not balanced and consist mostly of noodles. S/he also stated that the portions were too small.

AV2 said that s/he did not feel respected because s/he was often treated like a child. For instance, the AP1 would withhold coffee and cake from the AV2 if the AV2 had 'misbehaved'. S/he said was mostly given orders like 'sit down', 'eat', 'go to your room', but not asked what her/his preferences were or engaged in conversation. AV2 was told when to leave the common area, was made to go to bed at 7:00 p.m., etc.

AV2 said that s/he pays extra for a private bathroom, but her/his bathroom is used as the second bathroom. If someone is in the first bathroom, they simply walk through her/his room to use her/his

bathroom without even knocking. Staff and other residents alike. AV2 was upset that the AP1 had used her/his room to meet with ACHP staff that morning without asking permission. AV2 stated that s/he did not like when AP1 refused to allow the AV2 to return to her/his room while the AP1 was using it to meet with the ACHP staff during the ACHP staff members earlier visit that day.

AV2 also said that watching television was the only activity offered. She said that she would like to move.

Statements of AV3:

AV3 was interviewed by witness 6. S/he stated that s/he was not happy with the food. S/he said that the servings were small, and there was very little variety.

AV3 said that there was nothing to do but watch television every day. S/he said that s/he did not feel cared for, that s/he represented dollar signs to AP1. S/he said that s/he did not like having to go to bed at 7 p.m. every night, and s/he did not like the way s/he was communicated with by APjs. AV3 also believes that the AP1 has opened her mail at times in the past. S/he said that s/he would like to move, but was afraid that AP1 would be angry and would retaliate if s/he found out. S/he was also concerned that her/his family would not want to go through the trouble of a move.

Statements of Witness 1:

Witness 1 stated that s/he visited the home regularly. When s/he visited during the week s/he saw AP1 and AP2. AP3 was the caregiver on the weekends, and AP1 was away during that time. Witness 1 came to visit AV1 in the evening once after visiting hours (8:20 p.m.) and AP1 would not answer the door or the phone even though s/he was in her/his private area in the Adult Care Home and could hear the door and phone. Finally AV1 walked to the door with the help of her/his walker and answered the door. AV1 had no water or ice, and that was a constant problem. Witness 1 wants a refund of \$1200 for the time that AV1 spent there, s/he wants to be reimbursed \$70 to replace a humidifier that broke after running dry, and wants an electric chair intended for AV1 but given

to another resident.

Statements of Witness 2:

When AV1 was at a nursing home, s/he discussed the possibility of moving to a ACH, but did not know how to find a good one. Witness 2 offered to call around and get some ideas. Witness 2 looked in the Yellow Pages, and saw API's phone number and location, and called her, along with calling other Adult Care Homes just for information. AP1 asked a lot of questions, and witness 2 answered them, then again explained that s/he was just getting preliminary information to pass on. S/he gathered information for a few days, and went to give it to AV1, only to discover that AP1 had already visited the AV1, had spoken with AV1 using the name of witness 2 as a referral, and had moved the AV1 into the AP1's home already.

Witness 2 visited the home 3 times during the first week AV1 was there. S/he arrived once to find AV1 being served a piece of cake after dinner. AV1 was explaining to AP2 that s/he could not have the cake. Witness 2 never saw AP3 during her/his visits until the weekend. AP3 was introduced to witness 2 as the weekend caregiver. After witness 2 visited 3 times, witness 2 received a letter from AP1 telling witness 2 that s/he was not allowed to come to the home anymore.

Witness 2 had a friend who tried to sell his mother's nearly new electric lift chair for \$500 without success, and was considering donating it in exchange for a tax deductible receipt. Witness 2 mentioned the situation to AP1 because s/he was hoping AP1 could get the chair for AV1 to use. AP1 asked for the phone number of the

friend with the chair. One day the chair turned up in the house, but not put into the AV1's room.

Statements of Complainant:

Witness 2 received a letter (exhibit B) from AP1 which said that

witness 2 could not visit AV1 at the home anymore. The letter said that complainant agreed that witness 2 should not visit AV1 at the home. Complainant denies that s/he agreed, and even states that s/he had never even spoken to the AP1.

Statements of Witness 3:

Witness 3 is a friend of witness 2, and mentioned that s/he had an electric lift chair (see exhibit G, G1) to donate in exchange for a receipt for the value of the chair, which was \$600. Complainant suggested to AP1 that the chair could be used for AV1. Witness 3 was approached by AP1 about possibly donating his electric lift chair to the Independent Adult Care Association. Witness 3 agreed, and received a letter of receipt for a value of \$600.

Statements of Witness 4:

This witness states that s/he is licensed as an RN and is also the operator of an adult care home. S/he works as a consultant for AP1, and is available on a call-as-needed basis when AP1 has questions, usually once every month or so. As an example, s/he told this investigator that s/he was consulted about a new resident that had recently moved into AP1's home and needed a complicated renal and diabetic diet. Witness 4 said that s/he visited the home and helped AP1 develop a meal plan for AV1, but stated that the meal plan would be "nearly impossible" for the AP1 to follow because it was so difficult. Witness 4 stated that the AP1 asked witness 4 to speak with the AV1. Witness 4 stated that the AP1 said that the AV1 was depressed and hostile because she had been dumped by her/his family to die. Witness 4 then spoke with the AV1 to cheer her/him, and then left.

This investigator asked witness 4 if s/he gave a nurses delegation for care regarding AV1's blood sugar monitoring or insulin injections. S/he said s/he didn't because AV1 did that herself. S/he said that s/he has been a consultant for AP1 since the home was opened. Witness 4 then said that s/he said s/he actually drops by once or twice a month, every month, unannounced, and checks on the residents and meets with the caregivers. There are no records of those visits, because they are just informal. This investigator asked

witness 4 to give the name anyone s/he has spoken to on her/his visits other than the AP1. Witness 4 could not. This investigator asked for a first name only. Witness 4 could not remember. S/he went on to say that the AP1 had a great home.

Statements of Witness 5:

Witness 5 was called by AP1 to stand by when the ACHP staff came to the home to investigate a complaint. Witness 5 was able to stand by at the home for a total of 15 minutes. Witness 6 went into a room to interview a resident, with no problem. When the investigator attempted to copy the medical records AP1 became upset and said s/he would not allow it. Witness 5 attempted to persuade AP1 to allow investigator to copy the records without disturbing the residents, but AP1 would not cooperate. The investigator decided to keep the peace and not attempt to copy the records, and dictated them instead into a tape recorder. The AP1 also got upset when the investigator dictated the notes into the recorder. The investigator then asked to see the food in the pantry, and witness 5 had to leave at that time.

Statements of Witness 6:

Witness 6 accompanied this investigator on an unannounced visit to the home. The residents were eating lunch. The lunch consisted of a half sandwich (made from one slice of bread and half a deli slice of turkey luncheon meat), a handful (1/4 cup) of Fritos corn chips, and a cup of water. When witness 6 asked to see the menu and observed that the lunch served was not even close to what the menu promised (see exhibit E), AP2 added a can of peaches to the table, and offered the residents coffee.

AP2 allowed this investigator to set up the photocopy machine in a vacant room, and asked witness 6 to examine the menu plan and the activities schedule in the room of one of the residents. AP2 contacted AP1, who arrived 10 minutes later. AP1 refused to answer basic questions such as what the name of her/his weekend caregiver was and where her/his certificate was.

When the AV2 came back to relax in her/his room (which we were using), AP1 told her/him to go back and eat. The resident said s/he was finished eating. AP1 used a harsh tone of voice and told her/him to go back to the living room and sit in a chair because s/he was using the room. The resident then left without further protest.

Witness 6 explained that there were allegations made, and that s/he was there to help investigate a complaint, and would need to speak with the residents and see their records. AP1 said that s/he didn't feel well and would not cooperate that day. S/he said that s/he would not allow the records to be seen that day, but that the residents could be spoken to. Witness 6 and the investigator decided to leave, but return to the home that day after lunch to view the records and interview the residents.

AP1 told witness 6 and the investigator to come back only with a police escort. AP1 also said that the residents would not be willing to be interviewed when witness 6 and the investigator returned.

Witness 6 and the investigator returned with a police escort, and witness 6 interviewed 2 residents. Both residents complained about the food, and expressed their unhappiness about having to go to bed at 7:00 p.m. Witness 6 then examined the residents' records, which were incomplete. When witness 6 asked AP1 for the rest of the records, s/he refused to produce them.

Statements of AP1 and AP3

When this investigator and witness 6 returned to the home with the officer, AP3 was present, as well as AP1 and AP2. AP1 read the complaint, and announced that all of the allegations were false. When asked about individual allegations, however, s/he actually only responded to a few, and AP3 responded to the rest in AP1's presence.

When asked about the allegations regarding the food, AP1 stated only that s/he had food in the house. S/he said that each AP prepared meals, that there was no designated cook. S/he didn't respond to the allegations about the meals. AP3 said that s/he

prepared AV1js special meals. S/he said that s/he weighed the portions by grams, made sure AV1 got fresh fruit and vegetables, and that s/he was a jsratch cookerj. S/he also stated that s/he did the cooking for the other residents, and that s/he took it as an insult when there was a suspicion that her/his cooking wasnjt good. S/he said complaints about food were a reflection on her.

This investigator then asked AP3 for a copy of the special diet menu, or even one special diet meal. AP3 said s/he couldnjt produce that information because AV1 had moved out the day before so AP3 didnjt keep the information around. AP3 offered to show this investigator some cookbooks to prove that s/he had the knowledge, and again spoke of weighing grams and portions and cooking from scratch. This investigator then asked to see the scales AP3 used. AP3 led this investigator to the bathroom. This investigator asked specifically for the kitchen scales. AP3 said that AV1 had left the day before, so the home no longer had need for the scales and they got rid of it.

When asked about the electric lift chair, AP1 stated that the chair had been donated to the Caregiverjs Association, and s/he bought it from the Association for \$20. S/he said that since there was no room in AV1js room after witness 1 moved the furniture around, s/he put it elsewhere.

When asked whether there was 24 hour care supervised by a C.N.A. as advertised in the brochure, AP1 stated that AP1, AP2, and AP3 were all C.N.A.js. Witness 6 asked AP1 if AP1's license had expired. AP1 stated that her/his license expired years ago, but s/he was still a C.N.A. because s/he had once had the training. This investigator asked AP2 and AP3 if they were CNAjs. AP2 said that s/he was a C.N.A. and a Physicians Assistant. AP3 said that s/he was not a C.N.A. and had never been one.

When asked about bringing water to AV1, AP1 stated that AV1 had been capable of going to the bathroom using her/his walker. S/he

stated that the AV1 could have gotten water for the humidifier on her/his own also. AP3 added that s/he actually did take water to AV1 constantly up until AV1 went to bed and AP3 went home for the evening at about 8:30 p.m.

When asked about the 24 hour care promised in the brochure, AP1 didn't respond, but AP3 stated that s/he provides care all night, seven days per week. S/he said that s/he sleeps in the living room on a sofa. AP1 didn't confirm or deny. The investigator asked whether there was an intercom or call bell system for residents to use during the night. AP3 said that all of the residents had a call bell in their room. The investigator asked to see and photograph the bells in three of the rooms. There were only bells in two of the three rooms, and the bells were tiny decorative bells which were hanging from a string. The bells were cute (exhibit C), but their delicate tinkling would not make effective alarms.

When AP1 was asked why s/he didn't respond when witness 1 came to the home one evening, s/he said that it was after the posted visiting hours. When asked why s/he didn't answer the phone, s/he said it was because the home was closed for the night. When asked why s/he didn't respond to AV1's calls for help when AV1 was having heart attack symptoms, s/he said that AV1 should have called 911, not her. S/he then expressed her/his outrage that witness 1 climbed into AV1's room at night. AP3 joined in, saying that s/he was right there asleep in the living room. The investigator explained that witness 1 didn't climb into the window but tapped on the AV1's window. Then AV1 made the trip to the front door using her/his walker, and let him in. Neither AV1 or witness 1 had seen AP3 sleeping in the living room that night or at any time other than the weekend.

The investigator asked AP3 why s/he didn't open the door when witness 1 came that one evening at 8:20 p.m. AP3 said that that was the day that s/he had to leave at a little after 8:00 p.m. (Although there is no date listed.) The investigator asked where AP3 was the night AV1 thought s/he was having a heart attack. AP3 commented that anyone who really thought they were having a

heart attack would call 911.

When asked about activities, the AP1 stated that the residents entertained visitors, had their hair done, and watched t.v. The AP1 didn't refer to the activities schedule that was posted in the kitchen (exhibit F).

When asked what time AV1 went to bed, AP1 said 7:00 p.m. S/he was also asked if AV1 or other residents were free to stay up if they wanted. AP1 said that they all went to their rooms at 7:00 p.m. because they wanted to. S/he said they all have television, cable, and phones in their rooms so they had no need to be in the living room after dinner. AP3 added that although AV1 went to her/his room at 7:00 p.m., s/he didn't go to sleep until about 8:30 p.m. AP1 didn't confirm or deny AP3's statement.

When AP1 was asked about AV1's records, s/he simply said there weren't any. The AP3 said AV1 didn't need any records because s/he gave her/his own insulin shots. The investigator asked if records were kept of AV1's blood sugar levels. AP1 didn't answer. AP3 stated that s/he stuck AV1's finger in morning, noon and night and that her/his blood sugar was constantly between 95 and 98. AP1 didn't confirm or deny AP3's statement. There was no nurses delegation for the finger sticks, nor a doctor's order saying what the blood sugar level should be.

The investigator asked AP1 what hours AP3 worked each week. AP1 would not respond. AP3 said s/he worked in the afternoons, from 2 or 3 or so on until the next morning each day, and all day and night on weekends. AP1 didn't confirm or deny AP3's statement.

When asked about the resident who broke her/his arm and didn't get medical help until the next day, AP1 denied that that ever happened, but would not produce any records that would confirm her/his denial. The resident is not identified in the complaint, and

only 2 of the 4 residents living at the home were willing to be interviewed.

Statements of AP2:

The AP2 was alone with the residents when witness 6 and this investigator first visited the home. During that time, AP2 told this investigator that the weekend caregiver's name was LBeverlyk. AP2 looked for, but couldn't locate LBeverlyk's caregiver's certificate. Witness 6 asked the AP2 why the posted menu was not being followed. AP2 said that the caregivers sometimes improvised.

Statements of Witness 7:

Witness 7 stated that the AV1 is a renal patient who has diabetes. Witness 7 stated that the AV1 needs dialysis treatments each week. Witness 7 stated that the AV1 has special dietary needs that must be strictly adhered to. (exhibit H)

The investigator asked Witness 7 if it was acceptable for the AV to have a blood sugar level of between 95 to 98. Witness 7 stated that the AV's blood sugar level should be at about 150, though it can go up to 200. Witness 7 said that the level of 95 to 98 would be unacceptable for the AV. The investigator asked if it would be advisable for the AV to eat Ritz crackers to bring her blood sugar level up to the desired 150 range. Witness 7 stated that that is what the doctor recommended. Witness 7 stated that the AV's health and even life depends on the AV's diet to a large degree.

The investigator asked witness 7 if any of the following foods would be acceptable for the AV to eat, **even once in a while:**

ramen noodles, canned baked beans, regular canned fruit, regular canned vegetables, canned chili, various sweetened cereal, Cheerios, oranges, orange juice, diet soda, sugar free ice cream, cake, Fritos corn chips, frozen fish sticks, frozen Tater Tots (frozen pre-fried potatoes), canned clam chowder, delicatessen meat

slices, bologna or other luncheon meats, Pasta Roni,
Tuna Helper, apple juice, Betty Crocker Augratin Potatoes,
 Bretty Crocker Scalloped Potatoes, Noodle Roni, Rice
a Roni, frozen pot pies, hot dogs, or Banquet pre-fried
 frozen chicken.

Witness 7 stated that the above food items are items which would be harmful to the AV and should never be consumed by the AV. Witness 7 stated that the AV is knowledgeable about her dietary needs and wouldn't consume such foods.

The investigator asked witness 7 if AP1, AP2, or AP3 had ever contacted the doctor's office to get a physicians order or nurses delagation for any of the AV's medical needs such as the finger sticks. The investigator also asked witness 7 if the AP1, AP2, or AP3 had ever called the doctor for advice on developing a menu or diet plan for the AV, whose diets needs were complicated. Witness 7 stated that neither the AP1, AP2, or AP3 had ever called the doctor's office for any reason at all. Witness 7 also stated that it was very common for caregivers of renal and diabetic residents to contact the doctor for advice on meal planning, but the AP1, AP2, and AP3 never did.

Witness 7 stated that the AV often called and also visited the doctor's office while she lived at the Adult Care Home, because she was concerned about being served harmful foods on a regular basis. Witness 7 stated that if the AV eats properly, she can expect to live a fairly healthy life for years to come.

Observations of Investigator:

When the investigator and witness 6 arrived the first time, the AP1 led us a residentjs room for our meeting. When the resident attempted to come back to her/his room the AP1 sent her/him away telling her/him to eat. When s/he said that s/he had eaten, AP1 told her/him that the AP1 put a chair in the living room for her/him to sit in, and for her/him to go sit in it.

The investigator suggested that the meeting be moved into the empty room down the hall. AP1 declined (exhibit D, page 1, paragraph 3). The investigator then explained to AP1 that the resident had a right to be in her/his room, and should have been asked permission before AP1 used it. AP1 stated that the resident didn't need it during lunch time and though the resident said s/he was finished s/he couldn't possibly be. AP1 stated that s/he had dragged a chair out to the living room just for the resident to sit in so s/he would have a place to sit while her/his room was being used.

The investigator and witness 6 returned to the home in the afternoon with a police officer to stand by while the residents were interviewed and records examined. AP1 denied that any allegations were true, but only responded to some allegations, and refused to respond to others. AP1 allowed AP3 to respond to certain allegations, and then would not confirm or deny what AP3 said. AP1 saw the portable copy machine and announced that nothing could be copied. The investigator spent several minutes explaining the need for, and the right to make copies. Witness 5 spent time attempting to persuade AP1 to allow any copying to be done peacefully. When it was clear that AP1 would continue to disturb the peace and upset the residents if copies were made, this investigator decided to dictate notes into a tape recorder instead (exhibit D, page 1, paragraph 2). The records of all the residents were incomplete, and there were no records of AV1 at all.

This investigator then asked to photograph the food supplies. AP1 led investigator into the pantry and apologized for being hostile, rude and uncooperative. S/he explained that another investigator had been out on a previous complaint about food, and said there was no food in the house. Because of this, AP1 explained that s/he still felt betrayed and had been taking it out on this investigator, but s/he would cooperate from that point on. S/he did not, however, answer any questions that s/he would not answer before, nor would s/he produce any records for AV1 at all.

List of exhibits:

- Exhibit A: The brochure used by the AP1
- Exhibit B: The letter written to witness 2 by the AP1
- Exhibit C: A photograph of the call bell system developed by the AP1 for residents to use in case of emergencies
- Exhibit D: The letter written by the AP1 which makes false statements
- Exhibit E: A copy of the undated menu posted in the kitchen of the AP1's Adult Care Home
- Exhibit F: The activities schedule posted in the AP1's Adult Care Home
- Exhibit G: A photograph of the electric lift chair
- Exhibit H: A letter from AV1's doctor

Findings of fact:

1. Meals are not nutritionally balanced at the Adult Care Home. (AV1, AV2, AV3, witness 6, Observations)
2. The residents donjt get enough to eat. (AV1, AV2, AV3, witness 6, Observations)
3. The AP1 treats the AVjs in a demeaning manner when it suits her/him. (AV1, AV2, AV3, witness 6, Observations)
4. The AV1 was not served the special diet s/he was promised and needed. (AV1, witness 4, witness 2, statements of AP1 and

AP3)

5. The brochure used to advertise the Adult Care Home makes false claims. (Exhibit A, AV1, witness 1, AV2, AV3, witness 6, statements of AP1 and AP3, Observations)
6. The AV2 is being charged \$1500 for a private room with a private bath but has to share the bath and is denied the use of the room when it is needed for other purposes. (AV2, witness 6, Observations)
7. The AP1 was uncooperative with ACHP staff who were investigating the complaints. (W#5, witness 6, Observations, statements of AP1 and AP3)
8. The APjs #1, #2, and #3 provided care for the AV1 and kept no records of the care. (AV1, statements of AP1 and AP3, Observations)
9. The AV1 was denied the right to have witness 2 as a visitor. (AV1, witness 2, Exhibit B [letter])
10. AP3 sleeps overnight at the Adult Care Home on the weekends only, not 7 days per week. (AV1, witness 1, AP2)
11. AP3 sleeps in the living room when s/he works weekends. (AV1, statements of AP1 and AP3)
12. AP3 monitored AV1js blood sugar level and kept it between 95 and 98, but there was no physicianjs order saying what AV1js blood sugar level should be. In fact the AV1's blood sugar level should be about 150. (Statements of AP1 and AP3, AV1, witness 7)
13. The AP1 demonstrated a lack of good personal character by consistently making false statements, printing false statements, and allowing AP3 to make false statements on the AP1js behalf. (AV1, Witness #1, Witness #2, Witness #6, Investigator, statements of AP1 and AP3, Exhibit A, [brochure])

14. Only a small portion of each residents records were available to ACHP staff for inspection. (Witness #6, Observations)
15. Residents were made to go to their rooms at 7:00 p.m. (Statements of AV1, AV2, AV3, Witness 6)
16. AV1 and AV3 both believe that AP1 read their personal mail before giving it to them. (AV1, AV3)
17. There was an undated menu posted on the refrigerator that was not actually followed. (AV1, AV2, AV3, witness 6, observations)
18. There were no planned activities offered at the Adult Care Home, although there was an activities schedule posted. (AV1, AV2, AV3, statements of AP1 and AP3, witness 6, Exhibit F)
19. Although the doctor's letter (exhibit H) mistakenly identifies witness 2's place of employment, it points again to the impression that witness 2 placed AV1 in the Adult Care Home of AP1.

Conclusions:

1. Meals are meager, and not nutritionally balanced.
Potential violation of MCAR 890-020-470(a), Requirements for meals.
Substantiated.
2. Special diet needs of AV1 were not met, no physicians orders for meals present.
Potential violation of MCAR 890-020-470(b) Special diets.
Substantiated.
3. AVjs have no intercom or effective call bells.
Potential violation of MCAR 890-020-840 (H), Bedrooms.
Substantiated.

4. AVjs have no emergency phone number for the AP1.
Potential violation of MCAR 890-020-480 (b), Telephone
Substantiated.
5. There is an activity schedule posted on the refrigerator, but the activities donjt actually take place.
Potential violation of MCAR 890-020-485, Activities
Substantiated.
6. AV1 never received the required fire evacuation orientation after s/he moved into the home.
Potential violation of MCAR 890-020-882(d), Evacuation
Substantiated.
7. AP1 consistently demonstrated the lack of good personal character required to operate an ACH.
Potential violation of MCAR 890-020-220(b), Standards
Substantiated.
8. AP1 refused to cooperate with ACHP staff who conducted the investigation.
Potential violation of MCAR 890-020-260(a), Cooperation.
Substantiated.
9. AP1 unreasonably denied the AV1 the right to have Witness 2 visit in the ACH.
Potential violation of MCAR 890-020-410(c), Resident Rights.
Substantiated.
10. A resident fell during the night and broke an arm and didnjt receive medical care until the following morning.
Potential violation of MCAR 890-020-500(a), Health care
Unable to substantiate
11. AP1 consistently treated the AV1, AV2, and AV3 in a demeaning manner.
Potential violation of MCAR 890-020-415(a), Resident Rights
Substantiated.

12. AP1 had no records for AV1, a renal and diabetic resident with special needs.

Potential violation of MCAR 890-020-450(b), (c), (d[A-H]),
Resident records

Substantiated.

13. AP3 sleeps in the living room when s/he works weekends.

Potential violation of MCAR 890-020-120(d[G]), Capacity

Substantiated.

14. AP1 reads the mail of the residents.

Potential violation of MCAR 890-020-415(h), Residents' rights

Not substantiated.

15. AP1 did not follow the posted menu.

Potential violation of MCAR 890-020-470(a), Meals

Substantiated.

MULTNOMAH COUNTY OREGON

COMPLAINT INVESTIGATION REPORT

Log # _____

Category _____ Facility Address: 9390 NE Multnomah
AFH _____ R&B _____ Operator Name: Dianna Roberts phone 1/ Initial
SSD _____ MED _____ Manager's Name: Cheryl Banks phone 1/ Follow-up
MRDD _____ CSD _____ Beverly Murphy 666-9121
Narrative: Action taken and findings (include dates and times - do not use names)

FINDINGS: (Check appropriate box and provide comments if needed.)

- ☒ 01 Statute or rule violation evident
☐ 02 No statute or rule violation
☐ 03 Unable to determine if violation occurred
☐ 04 Exception (note on Evaluation Form)
☐ 05 Code violation requiring referral

Allegations 1,2,3,4,5,6,7,8,9,11,12,13

Allegations 10,14

ACTION OR RECOMMENDATION: (Check appropriate box(es).)

- ☐ 01 Revisit date: _____
☐ 02 Referred to: a. _____ date _____
b. _____ date _____ c. _____ date _____
☐ 03 Decertification
☒ 04 Registration suspension or revocation
☐ 05 Civil penalty
☐ 06 Administrative conference
☐ 07 Letter of conditions or reprimand
☐ 08 Date investigation closed: _____

REPORT FILED BY (signature): Tamela Slaughter

Date 2/26/96

EA NOTIFIED: ☐ YES DATE: _____

TIME: _____

☐ NO

Distribution:
white copy: operator file
yellow copy: public file
pink copy: local SSD or MHD
goldenrod copy: SSD Program Operations

Oregon

STATE BOARD
OF NURSING

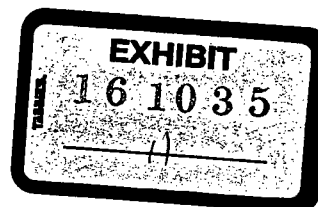
MEMO

To: Sheen Wu
From: Rita A. Bauman, RN, MS *RSB*
Subject: Dianna Roberts
Date: March 15, 1996

In response to your inquiry, I have searched the RN data base and the CNA data base for records of license/certification for Dianna Roberts, social security number 540-52-1833.

Dianna Roberts is not licensed to practice nursing in Oregon. If you have evidence that she is posing as a nurse, please notify this agency immediately.

Dianna Roberts applied for and was issued certification as a nursing assistant (CNA) in March 1990. Dianna did not renewal her certificaion. Pursuant to OAR 851-60-016 (7), her certification expired December 31, 1992.



John A. Kitzhaber
Governor

800 NE OREGON ST. STE 461
PORTLAND OR 97232-2162
(503) 731-4745
FAX (503) 731-4755

03/13/96

Personal...

ID No....:	Soc Sec No.:
Name....: ROBERTS DIANNA JOYCE NAIL	
Address..: 19390 NE MULTNOMAH CT	DOB..: 12/31/46
PORTLAND	Sex...: Female
OR 97230	Race..: White
Phone..: (503) 666-9121	

Last Update...
11/01/91

Training...

Program.....: MT HOOD CC
Completion..: 11/01/89
Manual.....: / /
Written.....: / /

Notice...

Crime.....:
Board Action..:
SDSD.....:
Note.....:
Hold.....:
DVR.....:

Certification Source...

Paper Archive Location...

Endorsements...

CMA....:
Passed..:
Issued..:

Certification...

Original Issue..: / /
Issued.....: / /
Expires.....: / /
Duplicate.....: / /
Verification....: / /

Comment...

Employment History...

Facility	Location	From	To
		/ /	/ /

Oregon

STATE BOARD
OF NURSING

FAX TRANSMISSION

OREGON STATE BOARD OF NURSING

800 NE OREGON ST STE 465
PORTLAND OR 97232
(503) 731-4745
FAX: (503) 731-4755

To: Sheen Wu **Date:** March 15, 1996
Fax #: 248-3377 **Pages:** three, including this cover sheet.
From: Rita A. Bauman, RN, MS
Subject: Dianna Roberts

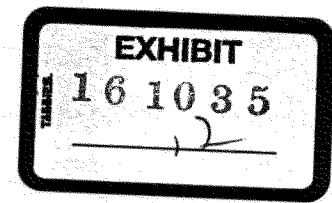
COMMENTS:

Here is the information you requested. You may call our office if you need additional information.



John A. Kitzhaber
Governor

800 NE OREGON ST. STE 465
PORTLAND OR 97232-2162
(503) 731-4745
FAX (503) 731-4755

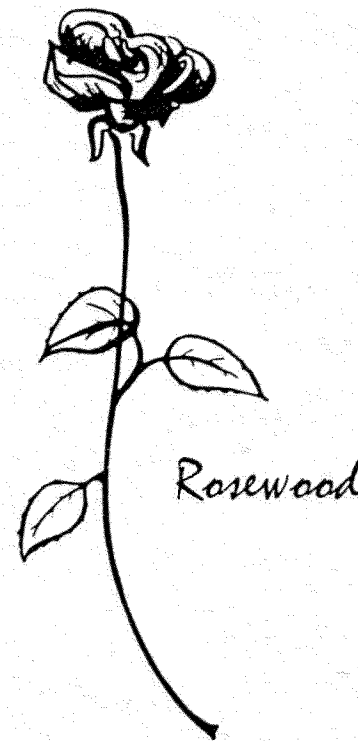


A few reasons to choose Rosewood:

- Conveniently located
- Private rooms
- Nutritious & delicious meals
- Special diets for diabetic, low salt or bland
- 24-hour supervision by CNA
- Special care provided for variety of disabilities (incontinence & personal hygiene; stroke; senile dementia; Organic Brain Syndrome; cancer; behavioral management; insulin injections)
- Wheelchair accessible
- Air-conditioned/smoke-free
- Transportation to medical appts.
- Medications monitored by RN
- In-home medical services
- Pet therapy provided
- Snacks always available
- Pharmacy billing & deliveries
- Personalized shopping
- Licensed, State of Oregon
- Senior Services Division Certified
- Activities available

Personalized care at a fraction
of the cost of institutional care

Rosewood Adult Foster Care
19390 ne multnomah ct.
portland, oregon 97230

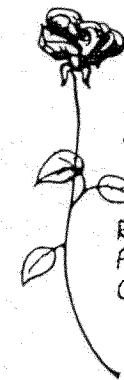


An Adult Foster
Care Home

Air conditioned & smoke-free
Established 1985

Rosewood . . .

a unique home
providing superior care
to the elderly
in a warm and loving
atmosphere

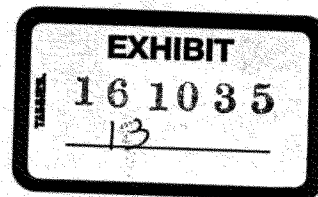


Dianna Roberts
cna, hhn level 2
owner/manager

Rosewood
Foster
Care

19390 ne multnomah ct
portland, oregon 97230
(503) 666-9121

conveniently located just east of
Summerplace Adult Residential Community



Who's Who

In Gresham

Saturday, February 28, 1996

Rosewood Adult Foster Care

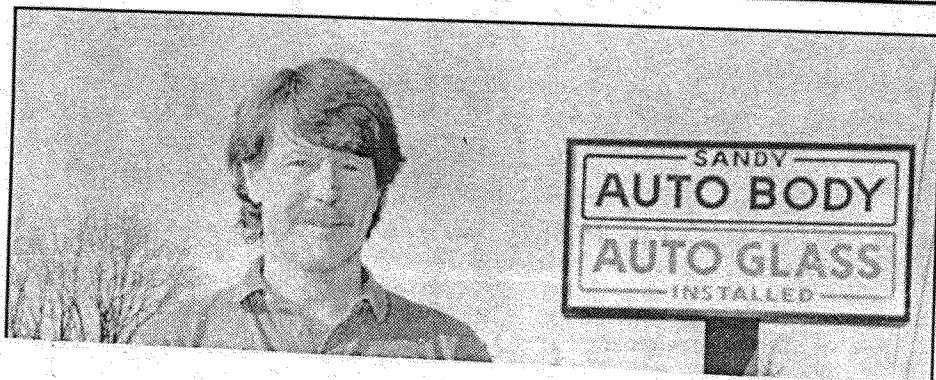
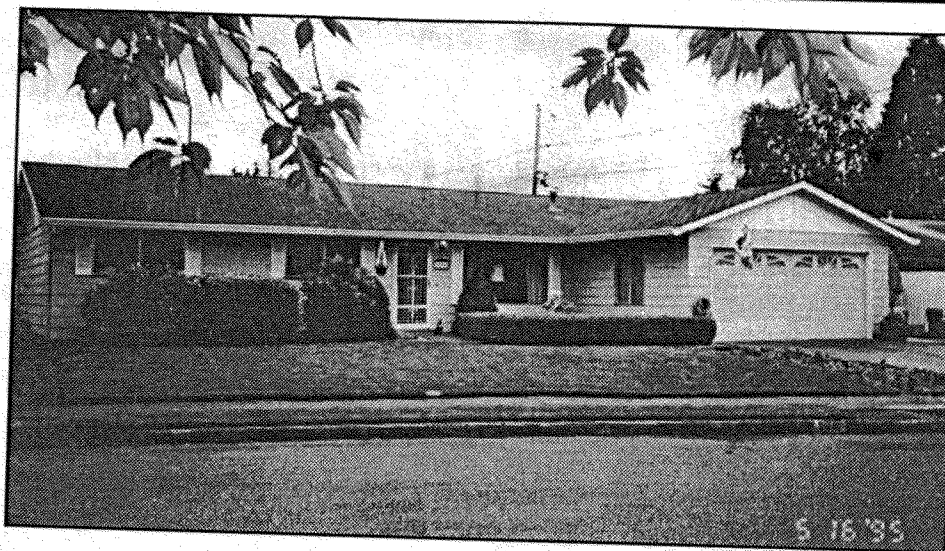
19390 NE Multnomah Ct. • 666-9121

Rosewood Adult Foster Care is a unique home providing superior care to the elderly in a warm and loving atmosphere. Located in a quiet neighborhood and within easy access to local medical facilities, Rosewood offers some of the best personal service available at a fraction of the cost of institutional care.

Rosewood is owned and operated by Dianna Roberts, an experienced Certified Nursing Assistant, along with a registered nurse who makes regular visits to oversee each patient's individual care plan.

Some services at Rosewood include special diets to fit the individual patient, extra consideration and care for a variety of disabilities, pharmacy billing & delivery, personalized shopping and transportation to medical appointments.

Since 1985, numerous residents attest that Rosewood has truly been "home" for them.



SANDY AUTO BODY

38650 Pioneer Blvd. • Sandy
668-4175

Sandy Auto Body, a 6000 sq. ft. modern facility located just 12 minutes east of Gresham in downtown Sandy, has been serving the local and surrounding areas faithfully since 1972. All makes and models of vehicles have passed through these doors. We can honestly say our customers usually enter our office unhappy due to inconvenience and circumstances, but leave happy and confident their vehicle has been repaired as good as new and sometimes better.

Specializing in expert auto body repair, frame straightening, precise



Dianna Roberts
cna, hhn level 2
owner/manager

Rosewood
Foster
Care

19390 ne multnomah ct
portland, oregon 97230
(503) 666-9121



ATTEN:

EXHIBIT B

January 24, 1996

FAX# 306-5722

Gresham, OR 97030-2564

Dear

I regret having to write this letter. However, the happiness and welfare of my residents are #1 IN MY HOME.

I have received complaints from all of my residents, and, also, my Resident Manager, about your visits. Along with taking into consideration the fact that your coordinator at Mt. Hood Mental Health requested that you not continue your visits with perhaps he had reasons neither of us can understand.

Naturally, should wish to continue with your Bible Studies, IN YOUR HOME, transportation can be arranged.

Sincerely

ROSEWOOD CARE INC.



Dianna Roberts
Owner/Operator

CONCURRENCE: _____

P.S. I recommend that, if you sincerely wish to continue your volunteer activities, you discuss with your coordinating supervisor the proper etiquette you are expected to adhere. Please note that I am not forwarding a copy of this letter to your coordinator. However, for my part, I can't begin to express how offended and disappointed I am, personally!

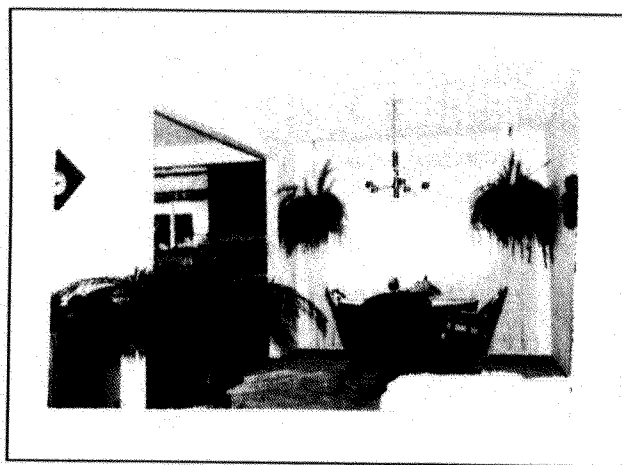


'Ms. Roberts operates a very professional and yet personal home. Her caring ways and thoroughness were always a comfort to me as well as to Freda . . . The peace of mind that they will be treated well is very important. Dianna gives one that peace.

'When Freda first came to Dianna's, she was still able to care for herself . . . As Freda's condition progressively worsened . . . Dianna continued to give the same level of care, tenderness and professionalism.

'I would recommend, without hesitation (Rosewood). She sincerely demonstrates all the qualities that are of the utmost importance in finding a home for those that we love.'

Conrad J. Weber, Gresham



'Not only is the home facility outstanding, but the care that she has given my patient, not only in routine daily hygiene care, but also in recognizing potential problems and avoiding them with early intervention ...'

Dennis Asby, M.D.



Rosewood

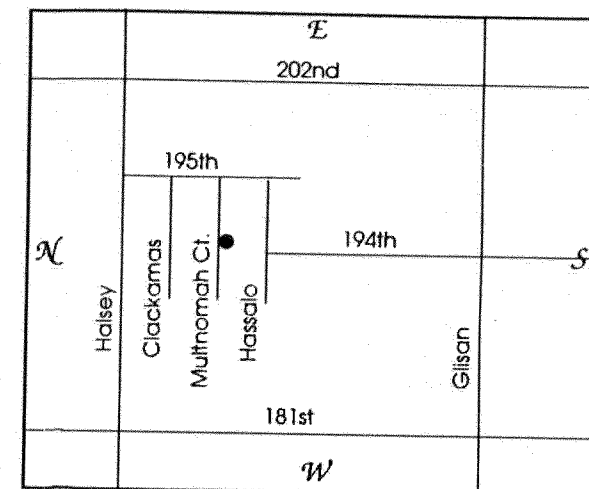
A comfortable, immaculate home in a quiet neighborhood, surrounded by well-groomed landscaping, an in-ground swimming pool, and easy access to local medical facilities make Rosewood a dignified place to live.

Rosewood is owned and operated by an experienced Certified Nursing Assistant with the assistance of a Registered Nurse, who makes regular visits and oversees each patient's Individual Care Plan.

Community services are available, as well as visits from physical therapists, home health agencies and family doctors. Other special in-home services such as hairdressers, podiatrists, lab work and x-rays are also available as needed.

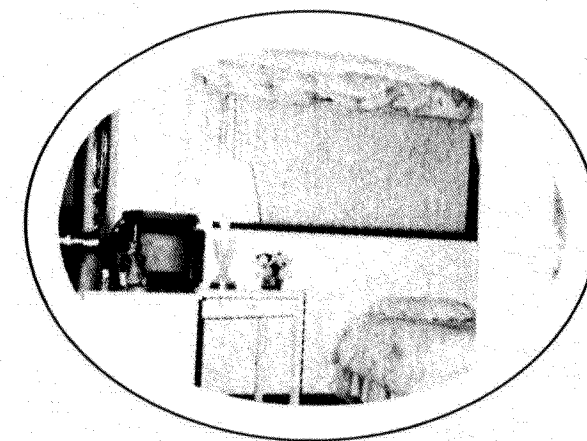
Since 1985 numerous satisfied residents attest that Rosewood has truly been "home."

*Member, National Association of Residential Care Homes



19390 ne multnomah ct.
portland, oregon 97230

For more information please call
dianna roberts, cna, proprietor
(503) 666-9121



'I would like to thank Dianna Roberts for the fine service she provides in caring for my mother. Not only is she loving and caring, but her home is beautiful, spotless and comfortable.'

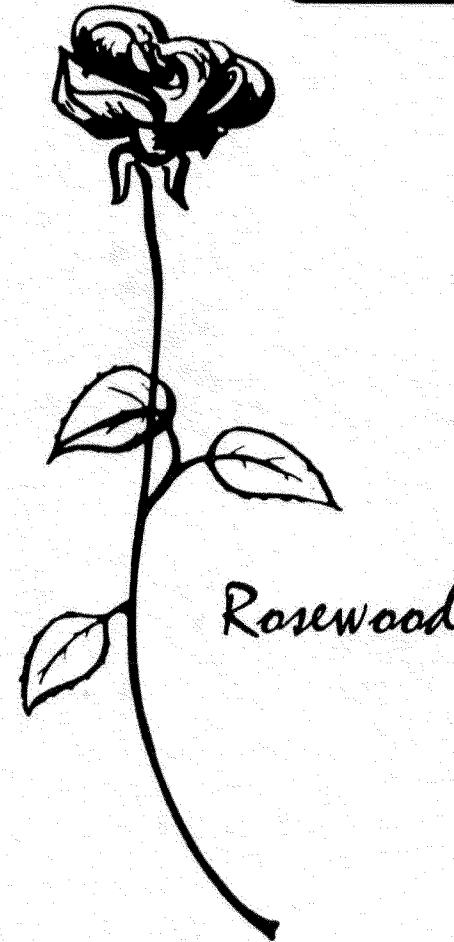
Patrick B. Hibbard, Portland

A few reasons to choose Rosewood:

- Conveniently located
- Private rooms
- Nutritious & delicious meals
- Special diets for diabetic, low salt or bland
- 24-hour supervision by CNA
- Special care provided for variety of disabilities (incontinence & personal hygiene; stroke; senile dementia; Organic Brain Syndrome; cancer; behavioral management; insulin injections)
- Wheelchair accessible
- Air-conditioned/smoke-free
- Transportation to medical appts.
- Medications monitored by RN
- In-home medical services
- Pet therapy provided
- Snacks always available
- Pharmacy billing & deliveries
- Personalized shopping
- Licensed, State of Oregon
- Senior Services Division Certified
- Activities available

*Personalized care at a fraction
of the cost of institutional care*

Rosewood Adult Foster Care
19390 ne multnomah ct.
portland, oregon 97230

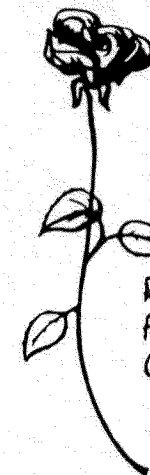


*An Adult Foster
Care Home*

*Air conditioned & smoke-free
Established 1985*

Rosewood . . .

*a unique home
providing superior care
to the elderly
in a warm and loving
atmosphere*



*Dianna Roberts
cna, hhn level 2
owner/manager*

*Rosewood
Foster
Care*

19390 ne multnomah ct
portland, oregon 97230
(503) 666-9121

*conveniently located just east of
Summerplace Adult Residential Community*

RECEIVED

MAR 15 1996

Oregon

October 10, 1995

ULT CAR HOME PROGRAM

STATE BOARD
OF NURSING

Mary M Fassell, Sanctions Specialist
Multnomah County Adult Care Home Program
421 SW 5th Room 405
Portland OR 97204-2221

RE: PEGGY BREWER, RN

Dear Ms. Fassell:

This letter is a response to your communication with the Board on September 21, 1995 regarding a complaint against Peggy Brewer filed with the Board. Dianna G Roberts, owner-operator of a Rosewood Adult Foster Care Home, filed a complaint with the Board on May 5, 1995. The complaint has been thoroughly reviewed. Based on the information supplied in the letter, there are no violations of the Board's standards for nursing conduct. Therefore, the investigation has been closed.

Sincerely,

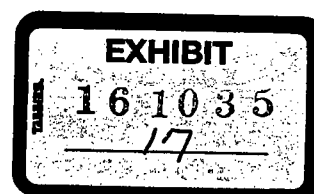
Mary Amdall-Thompson
Mary Amdall-Thompson, RN, MS
Program Executive
Professional Services

MAT:ljh



John A. Kitzhaber
Governor

800 NE OREGON ST STE 465
PORTLAND OR 97232-2162
(503) 731-4745
FAX (503) 731-4755

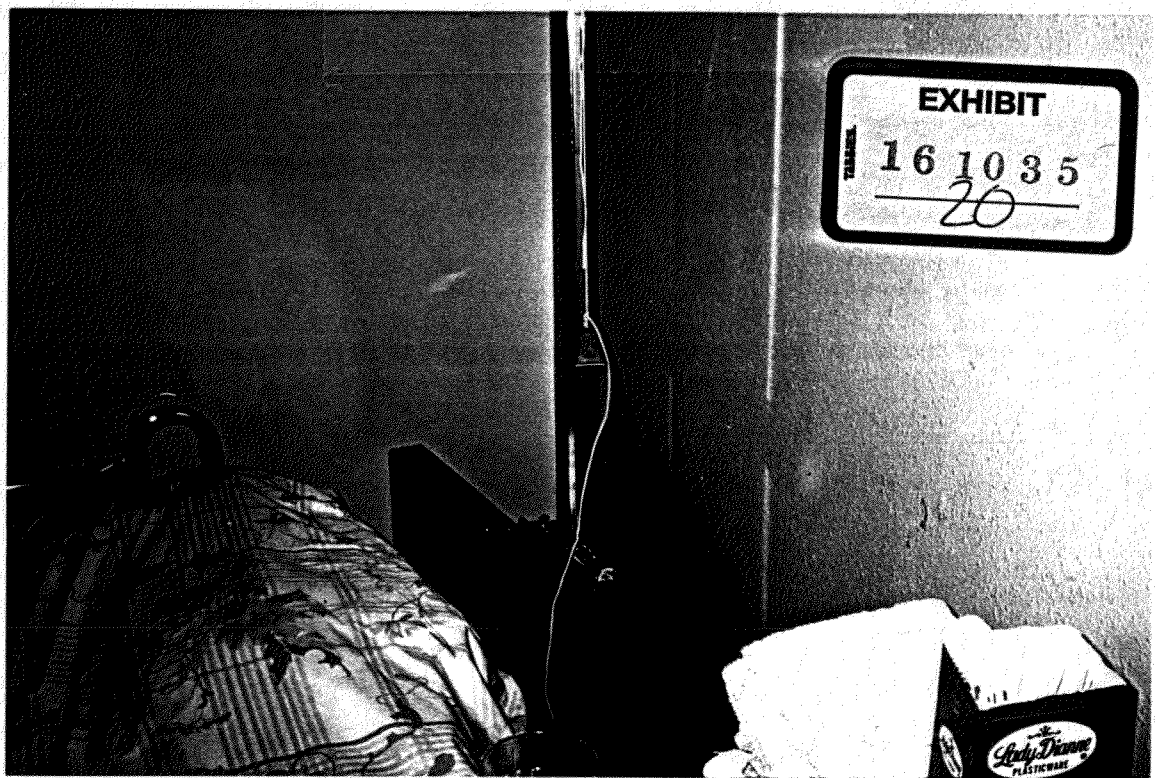


Week 4	Breakfast	Lunch <i>Exhibit E</i>	Dinner
SUNDAY	Bacon, Eggs, Hash Browns Biscuits, Jam, Juice Coffee/Tea/Hot Chocolate	Homemade Cream of Potato Soup 1/2 Ham Salad Sandwich Peaches/Cookies Tea/Coffee/Milk	Baked Ham Yams/Seasoned Green Beans Dinner Rolls Dessert Milk/Coffee/Tea
MONDAY	Malt-O-Meal Juice/Toast Hot Chocolate/Coffee or Tea	Cream of Mushroom Soup 1/2 Tuna Salad Sandwich Pears/Cookies Tea/Coffee/Milk	Macaroni & Cheese Ham Slice Spinach Dessert Milk/Coffee/Tea
TUESDAY	French Toast with Poached Egg Juice Hot Chocolate/Coffee or Tea	Split Pea & Ham Soup Grilled Cheese Sandwich Fruit Cocktail/Cookies Tea/Coffee/Milk	Baked Chicken Cordon Blue Mashed Potatoes/Gravy Peas Dessert Tea/Coffee/Milk
WEDNESDAY	Cream of Wheat Toast/Juice Hot Chocolate/Coffee or Tea	Cream of Cauliflower Soup Turkey Salad Sandwich Jello with Whip Cream Tea/Coffee/Milk	Baked Pork Chops Mashed Potatoes/Gravy Broccoli with Cheese Sauce Dinner Roll Dessert Milk/Coffee/Tea
THURSDAY	Cold Cereal/Peaches Toast Hot Chocolate/Coffee or Tea	Chicken Noodle Soup Tuna Salad Sandwich Pears/Cookies Tea/Milk/Coffee	Beef Tips over Noodles Steamed Carrots Tossed Salad Dinner Roll Dessert Milk/Coffee/Tea
FRIDAY	Waffles with poached eggs Juice Hot Chocolate/Tea or Coffee	Fruit Plate - Cottage Cheese Banana Slices/Strawberries Pineapple Chunks/Dinner Rolls Milk/Coffee/Tea	Tuna Noodle Casserole Peas & Carrots Tossed Salad Dessert Milk/Coffee/Tea
SATURDAY	Minced Ham/w Scrambled Eggs Buttermilk Biscuits Juice Hot Chocolate/Tea/Coffee	Turkey Salad Sandwich Chicken Noodle Soup Jello with Fruit Cocktail Cookies Milk/Tea/Coffee	Spanish Rice Creamed Corn Cottage Cheese with Pineapple Ring Dessert Milk/Coffee/Tea

EXHIBIT

161035

18



DONALD W. FROOM, M.D. P.C.
ANTHONY C. DE MORY, M.D.
Physicians

Diplomates: American Boards of
Internal Medicine
Nephrology

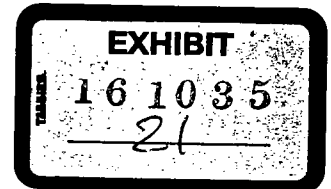
Hypertension and Kidney Disease

RECEIVED

MAR 19 1996

9155 S.W. Barnes Road, Suite 534
Portland, Oregon 97225
503/292-7721
FAX 503/292-6455

March 9, 1996



To whom it may concern:

Helen Flanagan is a diabetic patient who has chronic renal failure. Her dietary needs are very specific and an improper diet can lead to life-threatening problems.

Mrs. Flanagan was placed by the St. Vincent social-worker in an assisted-living home, where she was assured her dietary needs would be met.

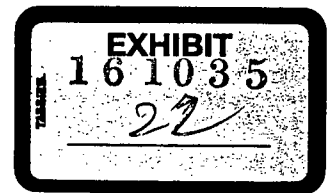
Mrs. Flanagan did not receive a special renal diet and was told to eat what she was served. She also did not have 24-hour care, as promised.

In our opinion this was not an appropriate or safe living situation and other patients with special needs should not be placed in this home.

A handwritten signature in cursive script, appearing to read "D W Froom".

Donald W. Froom, M.D.

PROVIDENCE MEDICAL CENTER
Portland, Oregon



Page 1

EMERGENCY ROOM RECORD

ADMISSION: The patient was admitted to 4-G.

PRIMARY CARE PHYSICIAN: Dr. Gaskell, who does not admit her.

ASSIGNED ORTHOPEDIC PHYSICIAN: Dr. Harrison.

MEDICINE CONSULTING PHYSICIAN: Dr. Jay Brown.

EMERGENCY DEPARTMENT PHYSICIAN: Dr. Debra Robinson.

CHIEF COMPLAINT: Fall and change in mental status.

HISTORY OF PRESENT ILLNESS: This is a 92-year-old white female who lives in a foster home and was brought to Providence Medical Center Emergency Room for a change in mental status with decreased responsiveness and increased sleepiness. The patient has been able to walk previously with a walker but had an unwitnessed fall this morning and since that time has not been able to walk well with her walker.

She has had diarrhea in the last week. Other than that, there are no complaints. The patient denies any vomiting, abdominal pain, shortness of breath, or chest pain. She denies being confused, but her daughter who is present states that the patient's mental status is significantly different. The patient asks the daughter how Easter dinner was, and the daughter states that this is a definite change in the mother's mental status.

REVIEW OF SYSTEMS: There is a history of diarrhea for the last seven days. The patient denies any shortness of breath, chest pain, abdominal pain, or vomiting.

PAST MEDICAL HISTORY: History of congestive heart failure x1 month. Diverticulitis. Left corneal implant. Partial hysterectomy. Glaucoma.

CURRENT MEDICATIONS: Lasix and potassium chloride.

ALLERGIES: Sulfa.

SOCIAL HISTORY: The patient lives in a foster home. There is no history of alcohol or tobacco use, according to the patient. The patient has a daughter in Portland.

FAMILY HISTORY: Not obtained.

PHYSICAL EXAMINATION: GENERAL: This is an elderly appearing white female who is alert and oriented to Providence Medical Center but is unable to tell me the date, month or year. She responds to questions and follows commands but occasionally is unable to follow all commands. VITAL SIGNS: Temperature 99.9, pulses 78, respiratory rate 24, blood pressure 187/76, oxygen saturation 96 percent on room air. MONITOR: Sinus rhythm with PVCs. HEENT: Head normocephalic and atraumatic. The left eye is closed. The patient does open her left eye, and she has a corneal implant. The right eye's pupil is nonreactive. Oropharynx is pink and moist. The patient does have a positive gag. NECK: Supple with full range of motion and no pain. No lymphadenopathy. LUNGS: Crackles in bilateral bases, left greater than right. CARDIOVASCULAR: Regular in rate and rhythm with 1-2/6 systolic ejection murmur. ABDOMEN: Soft, nontender, non-distended, with no masses. Bowel sounds present. EXTREMITIES: No clubbing, cyanosis or edema. The patient is able to move all of her extremities with the exception of her right leg. The patient is complaining of right hip pain and refuses to bend her right knee secondary to this

A950725 A/V #3

45-75-60

EMERGENCY ROOM RECORD

John T. Harris, M.D.

CHART COPY

Account: 09510306856

04/13/95

I/P 4G37.1

PROVIDENCE MEDICAL CENTER

Portland, Oregon

Page 2

pain. Her right leg also appears to be mildly externally rotated. **NEUROLOGICAL:** The patient is alert and oriented to Providence Medical Center but is not oriented to date, month or year. Cranial nerves were not all tested secondary to the patient's lack of cooperation. Her extraocular muscles appeared intact. The patient did not have any tongue deviation. She refused to puff out her cheeks or smile. She did raise her eyebrows, and these were symmetrical. Her other cranial nerves were unable to be tested secondary to the patient's either misunderstanding or lack of cooperation. She did have a positive gag reflex. **MUSCLE STRENGTH:** Her grip was 3/5 bilaterally. Proximal muscles strength was 4/5 in the upper extremities bilaterally. Distal lower extremity strength, dorsiflexion and plantar flexion were 4-/5 bilaterally. Deep tendon reflexes were 1+ in the upper and lower extremities. Babinski withdrawal bilaterally. There were no focal abnormalities noted.

MEDICAL DECISION MAKING: To further evaluate the patient's complaint of right hip pain as well as the change in her level of consciousness and her inability to walk, as well as her apparent confusion, a CBC and nutritional panel were ordered as well as EKG, chest x-ray, right hip x-ray, and a CT scan. The patient also had a urinalysis ordered. The possible etiologies of her symptoms included a possible bleed in her head secondary to trauma, a possible CVA, a possible metabolic abnormality or infectious etiology, possible cardiac ischemia or myocardial infarction, or possible right hip fracture.

DIAGNOSTICS: The patient's EKG showed a normal sinus rhythm with primarily AV block and occasion PVCs, left anterior fascicular block, and LVH; this was unchanged from prior EKGs. Her nutritional panel showed a sodium of 141, potassium 3.5, chloride 106, bicarbonate 27, BUN 15, creatinine 0.8, glucose 102, calcium 8.7, phosphate 3.3, magnesium 1.8; white blood cells 11.3, hemoglobin 14.9, hematocrit 44.2, platelets 228,000. The CT scan was done and was negative. Her right hip x-ray did show a right subcapital fracture. Her chest x-ray was rotated, but she did have a right lung mass evident in the right lower lung which did not appear on previous x-rays from 1992.

Since the patient had no clear etiology for her mental status changes other than a right hip fracture, the decision was made to call the orthopedist on call, Dr. Harrison, who agreed to admit the patient to 4-G.

CLINICAL IMPRESSION:

1. Right subcapital fracture.
2. Mental status change.

DISPOSITION: The patient will also have a Medicine consult, and Dr. Jay Brown was notified of the patient. He will do a Medicine consult for the change in the patient's mental status. The patient may have a new right lower lung mass, but this remains unclear. Dr. Brown will see the patient and continue the workup for her mental status changes. The patient was seen and discussed with Dr. Robinson.

Nadine K. Gettel, M.D., Intern

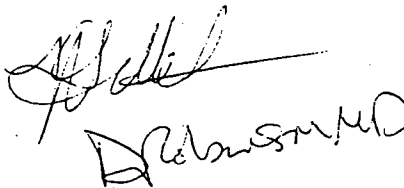
NKG/plc

D: 04/13/95

T: 04/14/95

cc: Arthur Gaskell III, M.D.

Jay P. Brown, M.D.



A950725 A/V #3

45-75-60

EMERGENCY ROOM RECORD

04/13/95

John T. Harris, M.D.

I/P 4G37,1

Account: 09510306856

CHA COPY

PROVIDENCE MEDICAL CENTER
Portland, Oregon

Page 1

CONSULTATION

REFERRING PHYSICIAN: John T. Harris, M.D.

CONSULTING PHYSICIAN: Robert A. Rosenbaum, M.D.

DATE OF CONSULTATION: 4-16-95

The patient is a 92-year-old woman referred for neurologic consultation because the patient has remained lethargic following hip pinning surgery. The patient lives in a foster care and she was noted to have a decreased level of consciousness. Apparently she had had a fall and she was found to have a hip fracture. She was admitted to the hospital for evaluation of the decreased level of consciousness and also had hip surgery. Following surgery, the patient's level of alertness has remained abnormal. She has been extensively evaluated with no obvious etiology. Her chemscreen showed elevated LDH initially and now shows a sodium of 132 but no major abnormalities. She has been basically afebrile. Her white count was a little elevated and is now 13,000. Her PO₂ was slightly down but not significantly. She had a CT head scan that was negative and had a spinal fluid examination that was completely clear. Still pending is a TSH. In reviewing her medicines in the hospital, she has not been on significant amounts of medicine. She has received Nifedipine and some ophthalmic medications but has not received analgesics in the last several days.

PAST MEDICAL HISTORY: The patient has nearly complete blindness with her left eye opaque and post cataract surgery on the right. She has had a hiatal hernia in the past, gallbladder surgery and has glaucoma.

MEDICATIONS: She is taking very little in the hospital, as noted, except for eye medications.

ALLERGIES: SULFA.

SOCIAL HISTORY: She lives in a foster care home.

PHYSICAL EXAMINATION:

MENTAL STATUS: When I came into the room, the patient appeared to be asleep. Because she is blind, she does not have good eye contact. When I spoke to her, she responded quickly so perhaps she was awake. I asked her a number of questions and I got quite close to her and almost yelled in her ear, but generally she did not answer. Some of the time, she would come up very quickly with an answer, but most of the time she did not. I asked her her name a number of times and then one time I asked her name and she spontaneously said her last name. I asked her why she was here and she never responded to that. I asked her to do simple commands such as wiggle your fingers and she didn't, and when I asked her why, she said, "I am wiggling them". Another time she came out with a complete sentence that was correct. I asked her if there was anything I could get for her and she said, "No, I'm fine". She had no aphasia.

CRANIAL NERVES: I could not see her fundi. The right pupil was quite irregular with post surgical changes. The left cornea was completely opaque. She had roving eye movements to each side which seemed equal to the two sides. I could not assess her visual fields in the right eye.

MUSCLES: I could not get the patient to really move anything. There was increased tone in her upper extremities. If I would lift her arm up off the bed, she would hold it there briefly and then gradually bring it down. She would not do anything voluntarily, however. When I stimulated her feet, she moaned a bit and had a very slight withdrawal but

CONSULTATION

A950725 AV#3

45-75-60

04/13/95

John T. Harris, M.D.

I/P 4G37-1

CHART COPY

PROVIDENCE MEDICAL CENTER
Portland, Oregon

Page 2

basically did not move her lower extremities when I asked her to, and I asked her several times to wiggle her toes.

REFLEXES: These are preserved in the upper extremities. I could not get reflexes in her lower extremities and there was no Babinski sign.

HEART: Regular sinus rhythm.

LUNGS: Clear to auscultation.

BRUITS: None noted over the carotids.

IMPRESSION: The patient is quite lethargic. She has no focal deficits but she is quite difficult to evaluate because she does not cooperate at all. She has some verbal response but very little. Apparently this is a significant change from her previous mental status.

I cannot find any easy-to-define etiology and she has been quite well evaluated. Several thoughts come to mind. Perhaps this is multifactorial in a very fragile elderly person. It takes very little at this age to make a person lethargic. Perhaps it is just the stress of the surgery and the injury. Apparently, however, her change of mental status occurred prior to surgery and that was the cause for her initial emergency room visit. Another thought that might explain everything would be a small cerebrovascular accident precipitating her initial fall and visit to the emergency room. She had a scan which did not show it, but perhaps the changes of the stroke were too mild initially to be seen on the scan.

Whichever mechanism it is, generally patients in this situation will resume normal alertness over several days. If she does not, then we can consider repeating her CT head scan. Another consideration would be a subdural hematoma but that is very unlikely because she was lethargic at the time of her first scan and there was no subdural seen on that scan. I will follow the patient.

Dictated and authenticated by: Robert A. Rosenbaum, M.D.

RAR/vp
D:04/16/95
T:04/16/95

CONSULTATION

750725 A/V #3

45-75-60

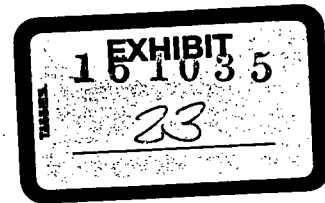
04/13/95

John T. Harris, M.D.

I/P 4G37-1

CHART COPY

Verna



Pa 18

6/7/95 Verna fell off commode this AM onto right shoulder. 911 called & transported. Had diarrhea in diaper & was continuing diarrhea on commode. D.R.

6/12 12 PM Verna returned home from hospital. Home Health Nurse requested.

6/13 Called DR. Nevis re Verna's hospital stay & treatment during (and test) of this recent stay. Explained Verna screaming in pain when

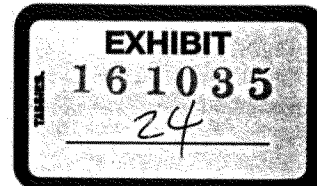
Lathy LaMoth, R.N. was out

6/19 Verna asking to be up out of bed, less combative & Alivan dose. Dr Nevis called, no need for blood test for Hct since pt refusing. Will have visit again this week to check perianal breakdown when pt in bed. Christywell

6-20-95 Verna requiring lift to transfer most of the time. D. Roberts

6-27-95 Pt has had diarrhea 4 times today. Ate only 1 egg & 1/2 toast. NO lunch. NO dinner. Very weak.

D. Roberts



Kaiser Foundation Health Plan of the Northwest • Kaiser Foundation Hospitals

- ☐ Discharge Orders • Instruction Sheet
☐ Patient Leave of Absence • Instruction Sheet

This prescription is to be used to order Discharge Medications from the Outpatient Pharmacy or may be used at your own pharmacy for refills.

- ☐ Fill at Kaiser Pharmacy ☐ Other Pharmacy

NEVIS, H. 01147
3069-37-0393 F 5A
KSMC 0600-008

PLEASE PRINT WITH BLACK BALL POINT PEN. USE LAY TERMS.

Attention Non-Kaiser Pharmacist! Verify legitimacy of all controlled substances

PT. HAS	MEDICATIONS	AMT	RE-FILL	TAKE AS FOLLOWS
	Flagyl 250mg	24		1 3 times daily
	Tylenol #3	20		1 every 4-6 hrs for pain (as needed)

For more than nine prescriptions, use second discharge form.

BKMC 5055 N Greeley, Portland OR • KSMC 10180 SE Sunnyside Rd, Clackamas, OR

Discharge Doctor: **X** R. Wisem

ACTIVITY	A. Bath: <u>OK</u>	D. Driving: <u>-</u>
	B. Activity Allowed: <u>up as tolerated</u>	E. Return to Work: <u>-</u>
	C. Diet: <u>Regular as tolerated</u>	F. Sexual Activity: <u>-</u>
	<input type="checkbox"/> Drug & Food Interaction Handout given & reviewed.	
	G. Other: _____	

FOLLOW-UP	FOLLOW-UP APPOINTMENTS WITH	DESIRED INTERVAL	LOCATION	DATE	TIME
	Dr H Nevis	3-4 wks	KSMC	Mon Jul 10	5:15
Wound Care: _____					
Special Instructions: _____					
<input type="checkbox"/> Additional printed instructions sent with patient: _____					

This was re
med form
from
6-12-95

If you have any questions or problems contact your personal physician. During the hours when clinic is not open call the Advice Nurse.

Advice Nurse - Adults: 652-3475 Advice Nurse - Pediatrics: 652-2880

I have read, understood and received a copy of my Discharge Instructions.

PATIENT'S/
SIGNATURE: **X**

DATE: _____

DISCHARGE
NURSE: _____

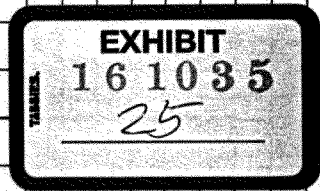
PHONE
EXT. _____

DATE: _____

DISCHARGE
DOCTOR: _____

DATE: _____

* means DON'T CRUSH MED	8am	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	1	2	3	4	5	6	7	8	9	10	11	12	13
CARBOUS SULFATE 5gr 1 tablet every morning																														
08/07/95																														
HYDROCORTISONE 1% crm -30 Apply SPARINGLY two times daily +AMT NYSTATIN CR=DIAPER CR)	PRN																													
06/19/95																														
NYSTATIN cream -30 Apply SPARINGLY two times daily +AMT HC1% CR=DIAPER CR)	P R N																													
06/19/95																														
NEOSPORIN oint. -30 Apply to involved area of perineum three times a day until rash clears	P R N																													
06/01/95																														
ADVIL 200mg TABS 1 tablet three times daily	8am 12n 7pm																													
07/12/95																														
MYLANTA susp 30ml between meals & at bedtime for 2 weeks	.																													
05/31/95																														
ASPIRIN 81mg 1 tablet every day at 12 noon	12n																													
04/07/94																														
COLACE 250mg gelcaps ** 1 capsule every day at 12 noon	12n																													
04/02/93																														
TYLENOL 325mg 2 tablets (650mg) every 4 hours as needed for pain or fever >101	P R N																													
04/02/93																														



NEVIS, H.		652-2880		ALLERGY	
PHONE		STATUS			
Generic Meds may be Substituted					
BIRTHDATE		AGE			
00/00/00					
FACILITY CODE		ADMISSION NO.		ADMISSION DATE	
RF006				04/02/93	
MONTH/YEAR		BED		PATIENT	
August 1995					

813-5231
Kaiser
Home Health
#A 950725
A/V #4

* means DON'T CRUSH MED	HOUR	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	1	2	3	4	5	6	7	8	9	10	11	12	13
TIVAN 1mg	P																														
o 1 tablet 1 hour before treatment	R																														
	N																														
01/18/95		*** CHART RESULTS ON REVERSE SIDE ***																													
YLENOL #3	P																														
o 1 tablet every 4 to 6 hours as needed for pain	R																														
	N																														
06/12/95		*** CHART RESULTS ON REVERSE SIDE ***																													
DVIL 200mg TABS	P																														
o 1 tablet as needed	R																														
	N																														
06/13/95		*** CHART RESULTS ON REVERSE SIDE ***																													
TIVAN 1mg	P																														
o up to 3 tablets daily as needed for agitation	R																														
	N																														
06/14/95		*** CHART RESULTS ON REVERSE SIDE ***																													
MODIUM 2mg **	P																														
o 2 capsules (4mg) stat	R																														
then 1 capsule every 6 hours as needed for diarrhea	N																														
06/28/95		*** CHART RESULTS ON REVERSE SIDE ***																													
NURSE'S REVIEW	RVW																														
No Comment																															
Comment, See Record																															
Date Nurse Init.																															
		*** FOR NURSE'S REVIEW ONLY ***																													

NEVIS, H.

652-2880
PHONE

STATUS

ALLERGIES

Generic Meds may be Substituted

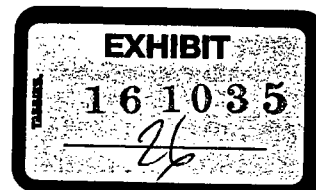
BIRTHDATE

00/00/00

AGE

CILITY CODE	ADMISSION NO.	ADMISSION DATE	MONTH/YEAR	ROOM	BED	PATIENT
RF006		04/02/93	August 1995			

SEP 15 1995



HAND Delivered

September 15, 1995

Annette Potts, Complaint Investigator
Aging Services Division
Multnomah County Oregon
421 S.W. 5th, 4th Floor
Portland, OR 97204-2221

Dear Annette:

I received your letter of September 12th, which was delivered by Certified Mail on September 14th. It was 5:40 p.m. before I returned home and opened my mail. It has been on my calendar all week to be in your office at 1:00 p.m. this afternoon. However, according to my notes of our phone conversation on Monday, you had asked that I bring all my residents doctors orders, medication sheets, and progress notes, only. I was prepared to do that. Unfortunately, I would need a hand truck (which I don't own) to bring in ALL the records outlined in your letter in paragraphs 2 and 3. (MCAR 890-020-450 covers three (3) pages of regulations.)

To have ALL the records requested in you letter out of my home at one time for numerous hours would pose a danger to my residents, should any one of them have a medical emergency. Therefore, please plan on coming to my home at 1:00 p.m. today. I have an optical appointment this morning, but will be back by 1:00 to assist you with the files and answer referenced questions. Also, I will have extra staff on duty so that I may afford you my undivided attention. I apologize for any inconvenience this may cause you. I am a notorious packrat, and have ALL my record for ALL my residents back to June, 1985. You may freely review any residents file you choose, OR ALL OF THEM!

I have enclosed a Record Keeping Check List dated November 2, 1994 signed by Judy Fowler, Licensing Agent. Her comment on that report reads, "Records look great!" I am confident you will find all my records impeccable as they have been reviewed many times in the past eleven (11) years.

Respectfully,

Dianna J. Roberts

Dianna J. Roberts

cc: Jim McConnell
Emily Simon

Enclosures (2)

3 yrs Residents
In a - 7 yrs
Lto - 6 yrs
ALL Residents

Des Order
Med. Shuts
& Regus Notes

1:00

FRI 9/15



RECORD KEEPING CHECK LIST

Aging Services Division (503) 248-3646
Adult Care Home Program (503) 248-3000
421 SW 5th, Room 405
Portland OR 97204-2221

Operator Dianna Roberts Date 11/2/94

Form:

	Name	Name	Name	Name	Name
Resident Info Sheet	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Physician's Order	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Medication Sheet	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Screening Sheet	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Care Plan	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Progress Notes	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Admission Agreement	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Possession List	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Nurse Delegation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
LTC Form	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Money Management	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



JUDY FOWLER
LICENSING AGENT

MULTNOMAH COUNTY OREGON

ADULT CARE HOME PROGRAM
421 S.W. 5TH, RM. 405
PORTLAND, OR 97204-2221
248-3000 ext. 2837

Comments:

Records look great!!

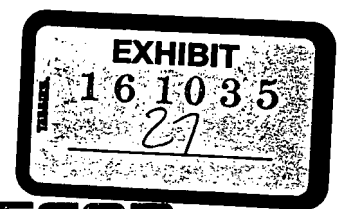
The above items that are indicated as missing **MUST** be included in the resident records. Please correct any missing items by _____ and contact our office when they are completed. Thank you,

J. Fowler
Signature / License Agent

DGR
Signature / Operator



MULTNOMAH COUNTY OREGON



AGING SERVICES DIVISION (503) 248-3646
ADULT CARE HOME PROGRAM (503) 248-3000
FAX: (503) 306-5722
421 SW 5TH, ROOM 405
PORTLAND, OR 97204-2221

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN • CHAIR OF THE BOARD
DAN SALTZMAN • DISTRICT 1 COMMISSIONER
GARY HANSEN • DISTRICT 2 COMMISSIONER
TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

September 12, 1995

Ms. Dianna Roberts
19390 N.E. Multnomah Court
Portland, Oregon 97230

Dear Ms. Roberts:

I am writing to follow up the conversation we had this morning, and to confirm our meeting time.

First, you will be coming to the Adult Care Home Program office on Friday, September 15, 1995, at 1:00 p.m. In order to complete my complaint investigation and to be as fair to you as possible, I will interview you to obtain your input on issues that have arisen during the course of my investigation.

Second, you will bring to the ACHP all "resident records" for any person who has lived in your home in the past three years. These records will include every record from the time the person was admitted to your home (even if that was more than three years ago) until the time the person left your home, or until the present date if the person still resides in your home.

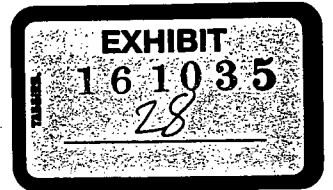
By all "resident records" I mean: progress notes, medication records, physician's orders, incident reports and accompanying hospital records, care plans, screening or assessment sheets, contracts for payment, inventories of personal possessions, house rules, records of funds handled for residents, and all other "resident records" defined in MCAR 890-020-450.

Thank you for your cooperation. I look forward to seeing you on Friday.

Sincerely,

Annette Potts, Protective Services
Multnomah County Adult Care Home Program

Annette,
for your info.



Annette, this is not a
confidential new evaluation.
It should be in her "case
history" file as well as in
the records DR Christensen
transferred to DR. Theresa Eubanks.

NOTE: DR sent us this 1989
assessment on 10/20/95,
which is 3 days after
we went to her home
to copy records and
she said the records
had disappeared.

MAM

Psychosocial Assessment

RECEIVED

OCT 20 1995

ADULT CARE HOME PROGRAM

Case Manager - Kathy Herren
Home Provider - Rosewood Residential Care - Dianna Roberts
Evaluation Date - 4/10/89
Client Birth Date - 6/16/14

Referral Reasons - Has been in numerous foster homes. In the last year has been in three different homes. Is anxious, chronic complaining, manipulating and telling family things about provider that are not true. Has unrealistic expectations about being in an apartment by herself. Requested an assessment and recommended care plan to be used by new provider.

Brief Medical/Social History - The assessment consisted of talking with and Dianna. has been in the new foster home for two weeks.

related that she grew up in a family where her older brother would close the closet doors in a closet and lock her inside there and then have smoke from a small house fire come into the closet to scare her and a sister. She still has a phobia of being in a room by herself.

She related raising six children on her own and continues to keep in touch with them. talks with her one daughter on a daily basis. Has been married twice. Her first husband did when her children were young and was an alcoholic and abusive to her. Then five years ago her second husband died and also one of her sons.

has a medical history of open heart surgery in 1986. Has had a C.V.A. In July, 1988, had shingles. A few years ago, she reported she had a seizure, and she is very frightened she may have another one.

began entering foster home placement in 1986. She complained about the first home where she was placed. She lost weight, and it was very unsuitable for her. She admitted she has been in numerous foster homes the last three years. She could not identify that some of her behavior was causing difficulties in the foster homes.

Reported that she had (L) eye blindness. The medications that she is taking includes: Librium 5 mg. daily, Promethazine 25 mg., Carbanazepine 200 mg., Pepcid 20 mg. Nitrostat .3 mg.

Reported having done restaurant work and housecleaning. Seemed quite proud of the work she had done.

Was at last foster home for three months and has been at Rosewood Residential Care since May 1st. She was at Dianna's mother's foster home previously. Reportedly rambling speech and refusal to take medications and messy room were the reasons the last care provider asked to have her transferred.

CC : MR. Christensen
7-28-89

Page 3

OCT 20 1995

Care Plan

Recommendations

Issues

1. Placement in Foster Home

1. The present foster home has a good potential of being successful. Dianna has developed some open communication with and is accepting of her behavior.

2. Control of Behavior

2. I recommend that firm limits be set for expected behaviors for and that communication be open.

3. Maniac Behavior

3. Recommend that she be evaluated by a psychiatrist for maniac symptoms and possibly Lithium prescribed or suggested behavior approaches.

Implementation - Another home visit has been scheduled for May 15th to discuss care plan with Dianna and evaluate placement. Plan to monitor on a six week basis.

Marylyn

Marylyn Klesh, R.N., M.N.
Mental Health Nurse

5/15/89 - ② am

B.P. - 114/50 - sitting up

B.P. - 114/60 - standing up

7/10 MON 1:30 Appt. Rescheduled to 7-21-89

NEXT Appt:

9-11-89 - 2:30 P

RECEIVED

OCT 20 1995

ADULT CARE HOME PROGRAM

Page 2

Mental Status Assessment - was very cooperative and pleasant during the interview. She looks younger than 74 years old. Dressed attractively and well groomed.

She was oriented to situation, time, and place. Was well informed of current events. Has an average fund of knowledge. Seemed to have a poor insight into her emotions and poor judgement. Is determined that she could live in an apartment on her own. had poor eye contact. She has significant rambling speech and maniac behavior patterns. Could have shared her life story for a whole day. It was reported that she changes clothes often and one morning came to the breakfast table in a mink coat. Indicates in the past she has had periods of depression. Denies any hallucinations or preoccupations. A delusional thought pattern was not noted. Her affect was euphoric and lively.

Assessments - At the present time, Dianna is feeling comfortable having It is possible that this is the honeymoon period. Dianna is accepting of hyperactive behavior but has cats and reports she is allergic to cats.

has many of the symptoms of maniac disorder. She has many unresolved emotional issues. She would benefit from a thorough psychiatric evaluation and possibly some Lithium treatment.

1-10-95 Routine visit - started back to VOA
this week - Papil tried x 3 days - Made her
dizzy & she fell - Papil stopped - Does not eat
very well - Not gaining or losing wt -
BP 174/80 P. 76 - Took BP later 158/60 P. 76
Contract Nurse Peggy Brewer, RN.

1/16 I talked to DR. T. about
Flo seeing DR. Punga. She
did not feel it was necessary.

1/18 DR. F. Ransen did Flo's ^{DR} feet. D.R.

1/19 Flo talks a lot about
DR. Rautenbach DR
from west side
Mr. Munnell
Forest Grove or
Somewhere
out there DR

RECEIVED

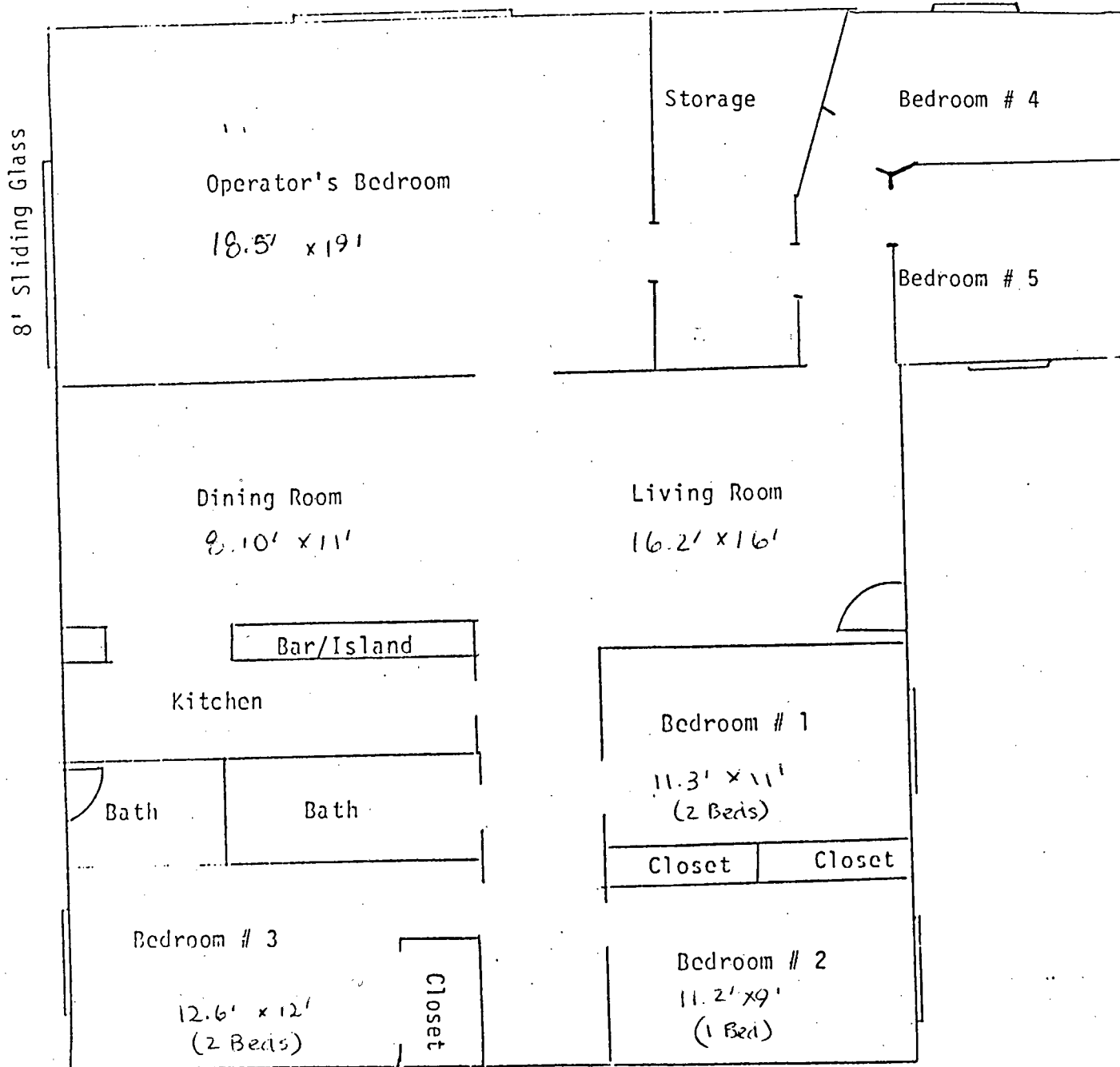
JUN 13 1990

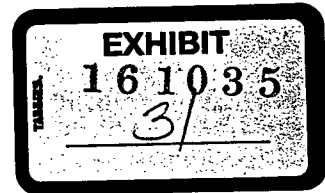
ADULT HOUSING PROGRAM

EXHIBIT

161035

30





MULTNOMAH COUNTY ADMINISTRATIVE HEARING

In the Matter of the
Revocation of the
Adult Care Home License
for Dianna Roberts

No. 161035

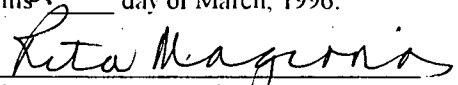
Affidavit of
Lieutenant Lofgren
In Support of
Multnomah County

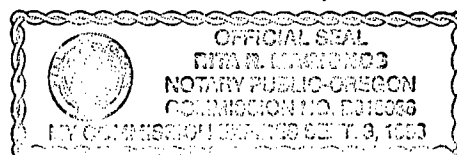
I, Eric Lofgren, being duly sworn, depose and say:

1. I am currently employed as a Lieutenant with the Gresham Fire Department. I have been employed in this capacity for 1.5 years.
2. On August 13, 1995, I was dispatched to 19390 N.E. Multnomah Court, Portland, Oregon, 97230. This address is the adult care home operated by Ms. Dianna Roberts.
3. When I arrived, Ms. Roberts informed me that she had called 911 because a resident was "violent", had hit Ms. Roberts, and stated she wanted to commit suicide.
4. Ms. Roberts was extremely agitated, and was crying when she spoke with me. While I was there, Ms. Roberts called the resident's daughter on the phone. During this conversation, I observed Ms. Roberts become very angry and stop crying.
5. The resident was calm when I arrived at the adult foster home. When I spoke with her, she appeared mentally sound, oriented and "with it."
6. The resident stated that she and Ms. Roberts had had an argument. She indicated that Ms. Roberts was withholding food from her and other residents and that Ms. Roberts was abusive toward her.
7. I did not see any other caregivers present in the home and did not observe any cuts or bruises on Ms. Roberts.
8. There was no medical basis for the 911 call or for removing the resident from the home. See Fire/EMS Tracking System Call Header Input Screen, attached. We responded to the call because we suspected abuse. Along with the police, Paramedic Letsis and A.M.R. arrived at the scene. We agreed the best alternative was to remove the resident from the home. The resident was transported to the hospital at her request.
9. It is my personal opinion that Ms Roberts calls 911 to get residents removed from the adult foster home that she does not want to deal with.


Lieutenant Eric Lofgren

SUBSCRIBED AND SWORN TO before me this 25th day of March, 1996.


NOTARY PUBLIC FOR OREGON
My Commission Expires: Sept 3, 1996



18-SEP-95
CIS/CHFIRE/EMS CALL TRACKING SYSTEM
CALL HEADER INPUT SCREEN

12:06:11

RUN	CALL TYPE	IND DATE	DAY	DISTRICT#	COUNTY#	MAP NUMBER	STATION#	RECEIVED	ENROUTE	AT-SCENE	IN SERVICE		
95-4568	[EC] EFS Call	13-AUG-95	[SUN]	[OR] Gresham	[MU] Multnomah	[127] 201st &	[74]	1802	0000	1805	1824		
NUM DIRECT	STREET NAME	TYPE	UNIT	CITY	STATE	ZIP	MUT AID	ALARM METHOD	SITUAT FOUND	ACTION TAKEN			
19390	[NE] MULTNOMAH	[CI]		GRESHAM	[OR]	97230	[N]	[07] 9-1-1 (t	[32] Emergenc	[98] No Actio			
SPEED DMR	CONDITION	TEMP	WEAT	WEPOS	FS-ITU	FS-FAT	CI-ITU	CI-FAT	FOLLOWED UP BY	REPORTED BY	DATE	ADDITION BY	DATE
0	[]	0	0	0	0	0	0	0	LETSIS		13-AUG-95		
FS RESPONSE	EN RESPONSE	AA RESPONSE	OV RESPONSE	VOID DATE	COMMENTS								
3	1	0	0		EE-3 NO MEDICAL NEED								

Computer
Screen ↑No chart
on this



MULTNOMAH COUNTY OREGON

AGING SERVICES DIVISION (503) 248-3646
ADULT CARE HOME PROGRAM (503) 248-3000
FAX: (503) 306-5722
421 SW 5TH, ROOM 405
PORTLAND, OR 97204-2221

BOARD OF COUNTY COMMISSIONERS

BEVERLY STEIN • CHAIR OF THE BOARD
DAN SALTZMAN • DISTRICT 1 COMMISSIONER
GARY HANSEN • DISTRICT 2 COMMISSIONER
TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

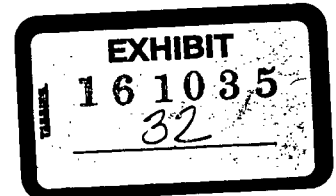
RECEIVED

JAN 09 1996

COUNTY COUNSEL FOR
MULTNOMAH COUNTY, OR

January 5, 1996

Ms. Dianna Roberts
19390 N.E. Multnomah Court
Portland, Oregon 97230



Dear Ms. Roberts:

I have received your December 15th letter requesting a hearing on the November 28, 1995 revocation of your adult care home license. Your letter does not indicate whether you want a conference on the revocation, but pursuant to MCAR 890-080-310 we want to schedule an administrative conference with you on this matter.

As your letter indicates, your attorney, James Niedermeyer requested conferences on the earlier suspensions of admission. With his agreement, a conference on the suspensions was postponed until the Department took action on the complaint underlying the suspension. He agreed that at that time you and he would decide whether to seek a consolidated conference and hearing.

Mr. Niedermeyer informed our attorney on December 18th that he is no longer representing you, and that to the best of his knowledge you are no longer represented by an attorney. If this information is not correct please notify us as soon as possible.

At this time, we need your response to the following questions:

1. Do you want a separate conference on the suspension of admissions dated August 18, September 15, October 14 and November 11, 1995? If a conference is held on these suspension, the only issue will be whether the Adult Care Home Program had received numerous complaints and therefore had a basis for taking immediate action.

2 Do you want a hearing on the suspensions of admission separate from the hearing on revocation of your license? Again, the issue at the suspension hearing would be whether the Adult Care Home Program's decision to suspend new admissions was supported by the receipt of numerous complaints.

3. Do you want to consolidate the suspension and revocation conferences and hearings? Because both the suspension and the revocation are based on essentially the same complaints and

evidence, it appears that consolidating the proceedings would be a more effective use of everyone's time. If you do want to consolidate these proceedings, the January 18, 1996, hearing date will not be adequate. Given the numerous complaints and witnesses involved, a longer hearing, scheduled well in advance, will be necessary.

In any case, the hearing office notified us that you verbally requested a four month set over of the January 18th hearing. They indicated they told you the hearing officer was not willing to reschedule a hearing unless he received a request from you in writing. If you make such a request in writing we agree to cancel the January 18th hearing so we can discuss setting a time and length and issues of the hearing, but we do not agree to a lengthy setover.

We would also like you to write us the specific violations with which you disagree so that we can begin to narrow the issues for hearing. We will also need an estimate of how much time you will need to present your objections before we can determine how long a hearing to request. Both of these matters could be discussed in a conference before the hearing is scheduled.

Please let me know as soon as possible whether you want to consolidate these proceedings, or whether you want to attempt to handle them separately. Please provide me as well with three dates in the next two weeks when you could be available for an administrative conference. We will then contact you with a firm date for the conference. Once we have met together, we can arrange a hearing schedule that fits the situation. If it is not possible to meet within the next two weeks we will set a hearing date without your involvement.

Sincerely,

Mary M. Fassell

Mary M. Fassell, Sanctions Specialist
Multnomah County Adult Care Home Program

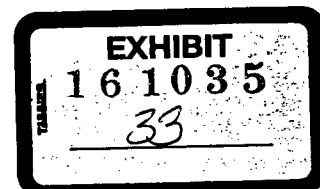
c: Jean DeMaster
Katie Gaetjens, Multnomah County Counsel

Post-It™ brand fax transmittal memo 7671		# of pages > 3
To	Katie Gaetjens	
From	Mary Fassell	
Co.	County Counsel	
Co.	ACHP	
Dept.		
Phone #	248-3000x2624	
Fax #	3377	

January 18, 1996

JAN 22 1996

Mary Fassell, Sanctions Specialists
 Licensed Oregon State Bar
 Multnomah County Oregon
 Adult Care Home Program
 421 S.W. 5th, 4th Floor
 Portland, OR 97204



Dear Mary:

Re: Your Letter of January 5, 1996 -- Received January 11, 1996

Pursuant to your first paragraph, it would seem quite evident, since I have paid three different attorneys to request a conference for me, that, yes, I do want a conference. However, now that I am no longer represented by an attorney, you demand that I make arrangements within two (2) weeks to come in for a conference ({Para. 4, Pg. 2})!

In your second paragraph on the first page, you state that, "conferences on the suspensions was postponed until the Department took action on the complaint underlying the suspension." I am not aware of any agreement or proposed conference. Please send me correspondence regarding this proposed agreement. I agreed to and signed three (3) letters of request for conferences on October 26, 1995 (2 letters) and on November 17, 1995 (1). In addition to Mr. Niedermeyer's requests, my two (2) previous attorneys also made numerous request for conferences on September 6, September 18, September 22, October 20, and October 31, 1995. Again, I received no conference, while I was represented by legal counsel. For you to demand, NOW, that I come in for a conference within two (2) weeks, or you will schedule a, "hearing without my involvement," (Para. 4, Pg. 2) is an attempt to thwart my due process.

I am currently in the process of interviewing attorneys to represent me, which I feel are qualified and have experience in this area of law. Mary, I have had three (3) attorneys review the file you provided me; and that you and Jean DeMaster indicated in your letters of August 18, September 15, October 13, November 9th and November 28th, "would automatically become part of the information available to a Hearing Officer." On January 12, you informed me that this "file" was confidential; and , therefore, will not be available to a hearing office. At attorney's hourly rate of \$150. per hour to review 379 pages has caused me undue expense. This issue must be resolved before I am able to retain a new attorney to avoid further unnecessary expense.

Since May 1995, Aging Services Division has refused to refer anyone to my home, as well as stopped other Medicaid residents from moving into my home that had chosen my home through private referrals. Just for 1995, this represents a loss to me of \$12,200, as the room available had been renting for \$1,650/mo. I'm sure anyone would agree this, along with the attorney fees

Mary Fassell
January 18, 1996
Page 2 of 3

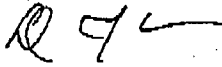
accumulating, is quite a financial loss to bear ON ALLEGATIONS ALONE -- allegations from a longtime (6 years) resident with a well-documented history of a mental disorder and from a disgruntled fired employee. And, although some of those allegations were recently partially substantiated; I have substantial evidence that this was a dishonest, politically motivated investigation spearheaded initially by you, Mary.

Had you not prevented me from being assigned a qualified geriatric psychiatric nurse, as I had requested in the spring; this all could have been prevented. Flonnie McClane would still be in my very warm, comfortable, and beautiful home -- not facing the possibility of going into a nursing home, which is presently being proposed by the current Case Manager. As difficult as this resident was, I enjoyed her very much as did my other residents -- MOST OF THE TIME! And, I firmly believe she was as happy here as she is capable of considering her mental disorder.

In closing, choosing from your list of three (3) alternatives (Pg. 1), is a decision for my next attorney. I have my own opinion; however, must reserve it until I again have legal counsel. Further, my attending any semblance of a conference without legal counsel considering the collusion I experienced in the June 22 and 26th conferences is out of the question.

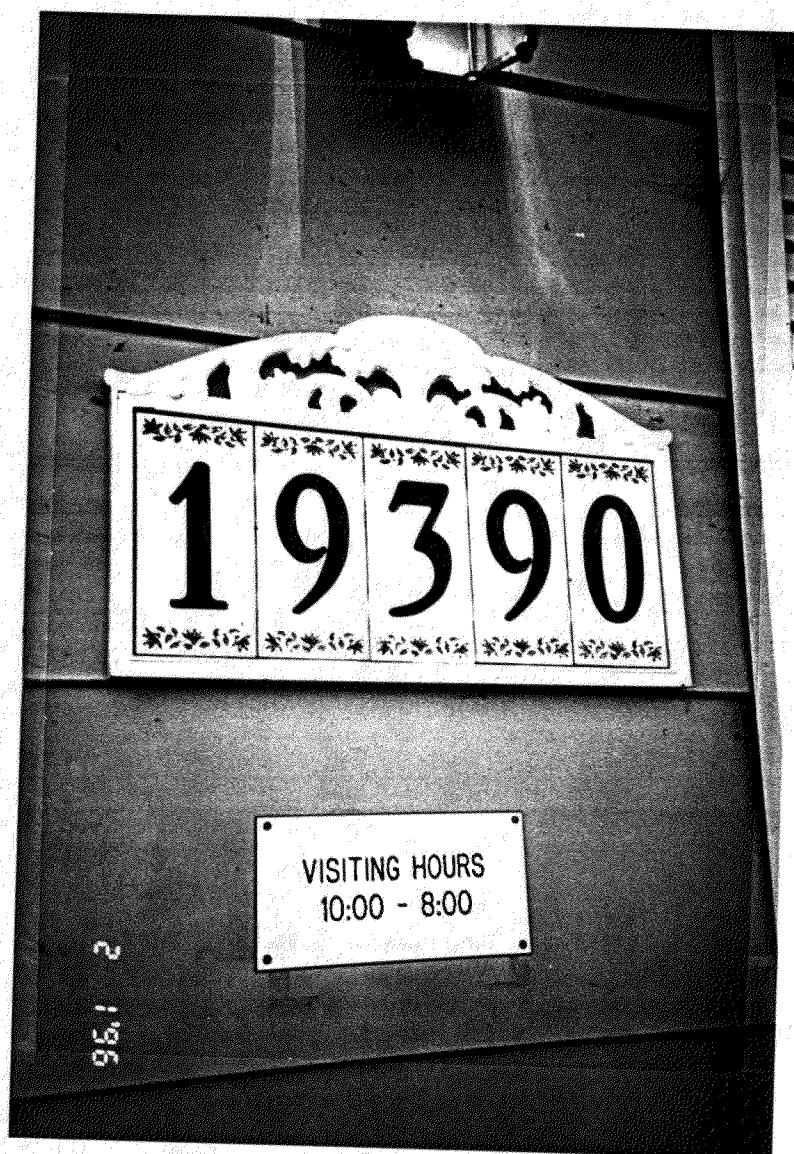
Regards,

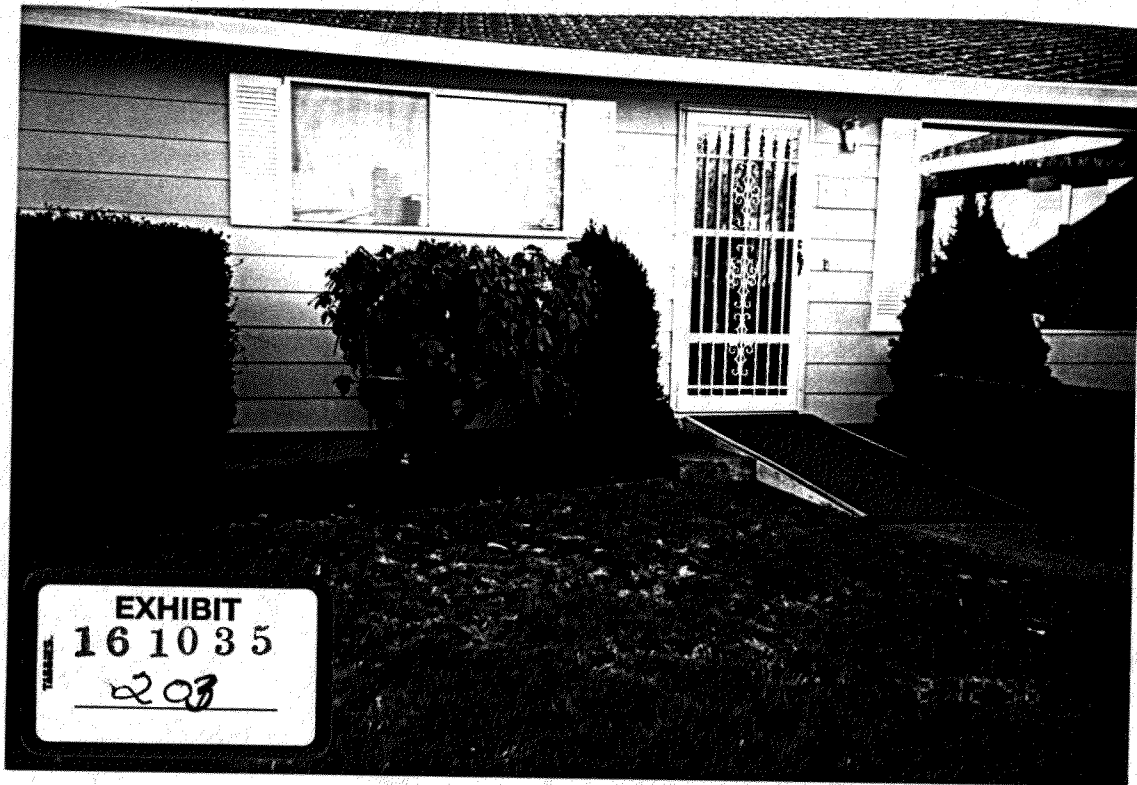
ROSEWOOD CARE, INC.



Dianna J. Roberts
Owner/Manager (Since 1985)

EXHIBIT
161035
202





Allegation #1

Denying access to resident

AP sent a letter to WT 1 telling ^{he/she} ~~him/her~~ ~~that~~ could no longer visit AV at the AFH -

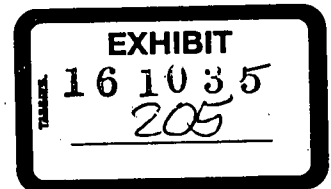
Allegation #2

lying - AP told WT #1 ~~that~~ in the letter that WT #1 supervisor had requested ~~he/she~~ discontinued visit to the AV at AFH.

Allegation #3

Retaliation -

AP accused AV and WT #1 of making a complaint to the AFHP regarding AP's dog.
AP called WT #2 and accused WT #1 and AV of making a complaint.



Allegation #4

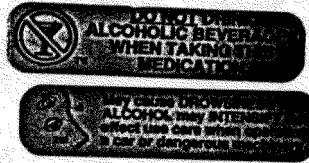
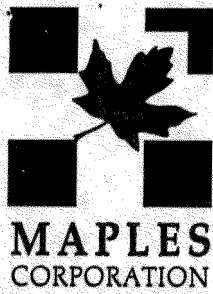
Neglect

- AV could not get help one night when he/she thought she/he was having a heart attack. AP looks her/his bedroom and doesn't respond.
- Wt #2 stated that a resident recently broke an arm at night and got no help until morning.
- Wt #2 attempted to visit one evening 8:40 PM. NO one answered the door - called on cell phone but only got AP message recorded. Wt #2 looked in the windows of the home observed AP socially engaged in his/her quarters. Wt #2 only entered the home after knocking at AV's window. Wt #2 entered the AFH and spent time w AV. ~~AP~~ AP never knew Wt #2 was in the home. Wt #2 found AV had no water - gets thirsty because of medical condition & meds. Wt #2 took care of AV needs.
- AV is diabetic and is not being served proper diet. AFH advertised/stated they provided appropriate diet and snacks but according to AV & Wt #2 it is not being provided.
- Wt #2 states AV thinks other residents are being starved.

Allegation #5

Residents Rights - privacy violated - personal letter. AP was not given the Wt #1 address. Suspect that AP read a letter sent to AV by Wt #1 without AV permission because of references in the Wt #1 letter (^{6th} ~~verse~~ ^{verses}) ~~and knowledge of~~ AP's letter denying access to AV in the future seemed to be based on this letter and access to Wt #1 ~~and~~ home address.

RETAIN ONE COPY, SEND ONE COPY to IPAC Pharmacy, 2725 N.E. Columbia Blvd., Portland, Oregon 97211 and SEND ONE COPY to DEA, 1220 S.W. 3rd, Rm 1566, Portland, Oregon 97204



IPAC Pharmacy Services
149 N.E. 102nd, Portland, OR 97220

Day: 254-7383
EMERG: 293-8114

CAUTION: Federal law prohibits the transfer of this drug to any person other than the patient for whom it was prescribed.

No. RF006-019 K Dr. NEVIS, H
ROGERS, VERNA
APAP-30MG CODEINE
SUB FOR(tylenol #3) 1mm
po 1 tablet every 4 to 6
hours as needed for pain

III
bs
93 150
p/p
f-c Ne

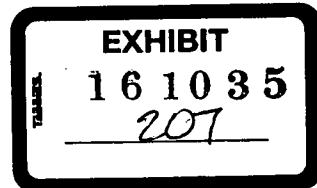
A/L: A,N

fill 06/12/95

exp 06/96

PRN





AFFIDAVIT

I, Rosalie Lopo, being first duly sworn, depose and say:

1. I have been cleaning Dianna Robert's Adult Foster Care Home for Approximately one year.

2. On October 17, 1995, Dianna phoned me regarding a bag full of files, which she was unable to locate. She asked me if I knew where they were. I asked if she was referring to the one under her desk by the waste paper basket. She said, yes.

3. I explained that I had taken them out with the trash the last time I cleaned on October 4th; because they had been sitting there for some time, and I assumed she wanted them taken out.

4. Dianna immediately became upset and explained that they were the files that the county was coming out to look at today and they were not going to believe her.

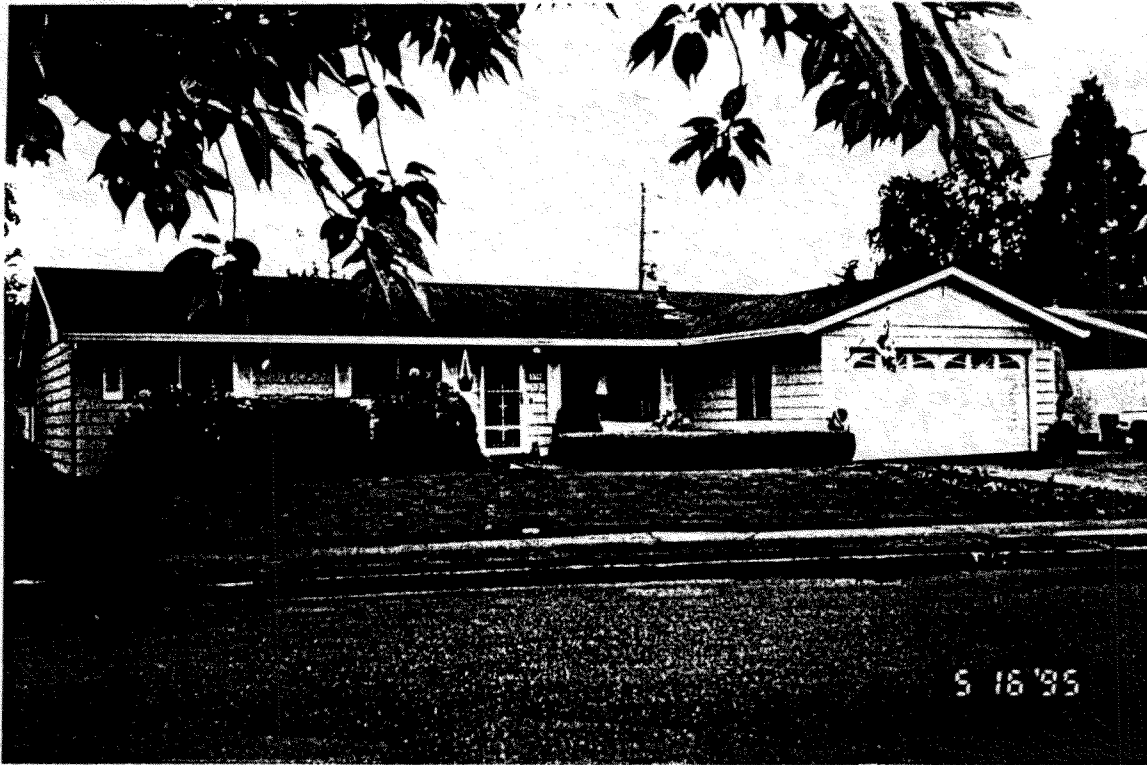

Rosalie Lopo

SUBSCRIBED AND SWORN TO before me this 15th day of November, 1995.

STATE OF WASHINGTON }
County of Skamania } SSS


NOTARY PUBLIC FOR WASHINGTON

MY COMMISSION EXPIRES 4 / 24 / 99

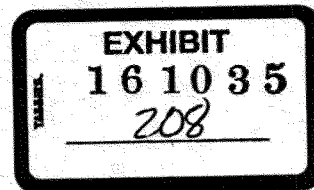


Dianna Roberts
cna, hhn level 2
owner/manager

Rosewood
Foster
Care

19390 ne multnomah ct
portland, oregon 97230
(503) 666-9121

Established 1985



FLONNIE McCLANE - 5-31-95

JUST 13 DAYS BEFORE AGING SERVICES DIVISION
REMOVED HER FROM MY HOME AGAINST
WRITTEN DOCTOR'S ORDERS
& FAMILY'S DIRECTIONS

(My resident of 6 years with *untreatable*)
(Borderline Personality Disorder!)



FLONNIE McCLANE - TODAY!!! 4/14/96

2

Mailing Address:
P.O. Box 30119
Portland, Oregon 97230-0119

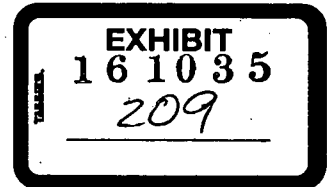
10373 N.E. Hancock, Suite 115
Portland, Oregon 97220
503-255-4542

2800 S.W. 257th
Troutdale, Oregon 97060
503-667-7711

COLUMBIA VIEW
FAMILY HEALTH CENTER
Family Medicine

THERESA M. EUBANKS, D.O.
ROBERT L. EUBANKS, D.O.
DOUGLAS L. EUBANKS, D.O.
PETER D. BERNIER, D.O.
J. SCOTT PRITCHARD, D.O.
BARRY N. DAVIS, D.O.

5/15/95



To whom it may concern:

Flonnie McClane is not capable of managing her own care and appointment of a guardian is necessary. I have been her doctor approximately six (6) years. Mrs. McClane's daughter, Darlene Scragg, would be the appropriate family member.

Cordially,

A handwritten signature in cursive script, appearing to read "Theresa M. Eubanks".

Theresa M. Eubanks, D.O.

75

10373 N.E. Hancock, Suite 115
Portland, Oregon 97220
(503) 255-4542

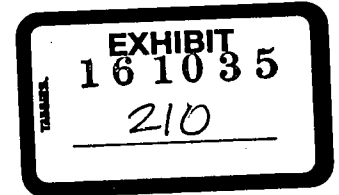
1800 S.W. 257th
Groutdale, Oregon 97060
(503) 667-7711

12750 S.E. Stark, Bldg. E
Portland, Oregon 97233
(503) 252-5597

Mailing Address:
P.O. Box 30119
Portland, Oregon 97230-0119

COLUMBIA VIEW
FAMILY HEALTH CENTER
Family Medicine

ROBERT L. EUBANKS, D.O.
THERESA M. EUBANKS, D.O.
DOUGLAS L. EUBANKS, D.O.
JAMES B. EUBANKS, D.O.
WILLIAM J. EUBANKS, JR., D.O.
PETER D. BERNIER, D.O.
J. SCOTT PRITCHARD, D.O.
BARRY N. DAVIS, D.O.



May 3, 1995

Michael Penney
Complaint Specialist
Adult Care Home Program
421 S.W. Fifth, Room 405
Portland, Oregon 97204-2221

RE: McClane, Flonnie O.
Date of Birth: 06/16/14

Dear Mr. Penney:

I am writing this letter at the request of Dianna Roberts, owner and manager of the Real Good Foster Care homes and am doing so with the authorization, notarized, of the patient.

I have known this patient since 1989 and have taken care of her through various illnesses. She is a charming lady who has had numerous physical problems. At times it has been somewhat difficult to differentiate between "actual" physical problems and complaints possibly designed to get attention.

I have had to keep in mind that sometimes this patient highlights her symptoms in various ways. If these are not studied within the context of the patient's personality and some of her habits, she ends up with a great deal of medication which actually makes her sicker than she would have been without them. I have been involved in some incidents with Mrs. McClane that are problems in management; that is, this patient requires a lot of "demand management". When I first began working with Ms. Roberts this patient would call an ambulance and be taken to the hospital for minor complaints which is, as you know, something that we need to avoid in order to keep the cost of medical care down.

90

Page 2
Flonnie O. McClane
May 3, 1995

I had an incident involving this patient that would have been somewhat humorous had it not caused so much chaos in my office. She and another patient came to our office on the same day with the same complaint and somehow confused the desk people so that they were seen by different practitioners who were not exactly sure of their identities because their charts had been switched. I do not know if this was conscious, but it was almost a ~~folly~~ ^{folie} à deux, at least to the point where both of these patients had the same symptoms on the same day. (JD)

I have also experienced numerous instances with this patient in which she would call the office and complain about various things going wrong at the foster home and then when we had a reconciliation session or a discussion session these things would be changed or would be viewed entirely differently.

Ms. McClane is charming and I enjoy working with her, but part of that enjoyment comes from a caretaker who understands her personality and is willing to manage this patient. Mrs. Roberts and I have an understanding about this patient and we are able to utilize medical resources well because we understand her.

Ms. Roberts has always appeared to me to be extremely caring, extremely ethical and extremely responsible in her responsibilities toward her charges. If Ms. McClane were moved to another foster home, I would need to terminate services because part of my good medical management of Ms. McClane is dependent upon the expertise and caring that Ms. Roberts has for this rather charming but sometimes challenging patient.

Please feel free to call me if you have any questions about this matter.

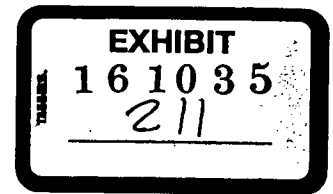
Very truly yours,


Theresa M. Eubanks, D.O.

TME:cf
d:05/04/95
t:05/05/95

cc: Carole Isaman
Annette Potts
Bunny Harold, R.N.
John Chabin, Case Manager
Dianna Roberts

91



AFFIDAVIT

I, Velma E. Spruell, worked for Dianna Roberts from approximately July 20, 1995 through August 20, 1995 in her adult foster care home. I am a CNA and have worked in nursing homes in Multnomah County for 15 years.

On my first day, Mrs. Roberts informed me that Flonnie McClane was her only difficult patient. She explained that the county had recently moved her to another adult foster care home for three (3) weeks and she had been returned just recently (approx. 7-7-95.) Mrs. Roberts explained she would be fine after a few days.

For the most part Mrs. Roberts' expectations were correct. Although Flonnie was on the phone a lot, she was re-adjusting as anticipated until Annette Potts and Doris Mitchell visited on August 18, 1995 to investigate a complaint.

After that visit Flonnie was agitated, argumentative and was a disruptive influence to the home. She complained about having to give Dianna ALL her money and 'she never did anything!' She instigated a vote of all the residents from her walker in the middle of the living room floor to vote me OUT! While I was bathing her that evening she hit me with her fist in the stomach and in the face causing my nose to bleed all over my T-shirt. The other residents witnessed the blood on my T-shirt and became upset.

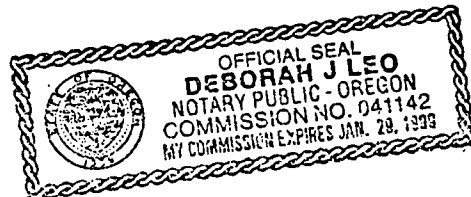
When I reported this behaviour to Mrs. Roberts, she immediately called 911 and requested that they transfer Flonnie to a facility where she could receive a physce evaluation.

I swear the above to be a true and sworn statement offered of my own volition and not due to durress of any nature.

Velma E. Spruell
Velma E. Spruell

SUBSCRIBED AND SWORN BEFORE ME THIS 27th DAY OF SEPTEMBER, 1995.

COUNTY OF Multnomah
STATE OF Oregon } SSS



1/29/99
My Commission Expires

Deborah J. Leo
(Notary Public)

EXHIBIT
161035
212

July 7, 1993

Ms. Mary Fassell, Atty.
Department of Human Resources
421 S. W. 5th
Portland, OR 97204

Dear Ms. Fassell:

In regard to your telephone request this morning to set up an appointment with Mr. Balog to discuss problems in my AFH, I indicated I was not aware of any problems. Carol Isaman has been out as recently as June 14, 1993; and at that time she had found zero deficiencies. I requested that, if, in fact, there were some deficiencies, I would like to be advised of them in writing.

I do not feel that this is an unreasonable request. Please be advised that I vehemently resent being accused of being uncooperative and threatened with a \$1,000.00 fine. I will repeat again, I will be happy to meet with Mr. Balog anytime of any day after receiving a written notice of a deficiency.

Respectfully,

Dianna J. Roberts

Dianna J. Roberts
19390 N.E. Multnomah Ct.
Portland, OR 97230
666-9121

cc: Mr. S. Balog
Dr. G. Nakao ✓
Mr. J. McConnell



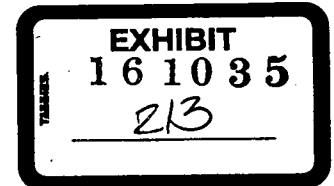
MULTNOMAH COUNTY OREGON

DEPARTMENT OF SOCIAL SERVICES
AGING SERVICES DIVISION (503) 248-3646
ADULT CARE HOME PROGRAM (503) 248-3000
421 S.W. 5TH, ROOM 405
PORTLAND, OREGON 97204-2221

BOARD OF COUNTY COMMISSIONERS
HANK MIGGINS • CHAIR OF THE BOARD
DAN SALTZMAN • DISTRICT 1 COMMISSIONER
GARY HANSEN • DISTRICT 2 COMMISSIONER
TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

July 13, 1993

Ms. Dianna J. Roberts
19390 N.E. Multnomah Ct.
Portland, OR. 97230



Dear Ms. Roberts:

I am writing to you about your letter concerning Ms. Mary Fassell's telephone call to you on July 7, 1993. I requested Ms. Fassell, who is on my staff, to call you to set up a meeting about some concerns that Carole Isaman had about your home. I shared these concerns. At this time they appear to be relatively minor concerns, but I thought it would be convenient and in the best interest of all to simply sit down and discuss them. Ms. Fassell may have misunderstood my intent and thought that the issues involved were more serious than they are. This was my responsibility for not making the purpose of the meeting more clear to her. I apologize for any concern that this may have caused you. It was an honest attempt to resolve some issues in an informal way.

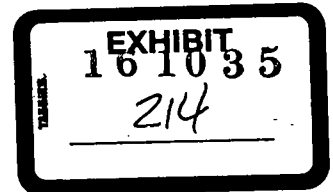
I have asked Carole Isaman to put in writing the concerns she has. Again, these appear to be minor concerns at this time. These are mostly about some issues that the Ombudsman Program have asked us to look into and some others that Carole has already talked to you about. We will certainly honor your request, which is reasonable, that we put our concerns in writing. At this point, we can certainly deal with these through correspondence from Carole Isaman.

Sincerely,

Stephen P. Balog, Manager
Adult Care Home Program

c. Carole Isaman
Dr. Gary Nakao
Mr. Jim McConnell

May 5, 1995



Mary Amdall-Thompson
Program Executive
Oregon State Board of Nursing
800 N.E. Oregon, #25
Portland, Oregon 97232

Dear Mary:

Subject: Complaint - Peggy Brewer, R.N.

By way of this letter I wish to file a formal complaint against the subject nurse, Mrs. Peggy Brewer, for unprofessional and dishonorable conduct.

On January 10, 1995, Mrs. Brewer visited my home to see my two (2) medicaid residents, which have been in my home since 1988-89. These ladies are 80 and 82 years old. During this visit she stated that she felt one of my residents should be seen by a cardiologist. I explained that I did not believe her primary physician would give her a referral. Never the less, I did speak with her primary physician and advised her that the visiting nurse had recommended a checkup at the cardiologist. Just as I had suspected, her primary physician did not wish to refer her. I phoned Mrs. Brewer to advise her. She, subsequently, phoned the doctor and demanded that she be seen. Under the circumstances, I immediately made an appointment and accompanied this resident to her physician, personally, as I always do. After examination, her physician did not feel it appropriate to refer her to the cardiologist.

Mrs. Brewer also phoned this resident's sister. My resident was telling all her family that 'her doctor' wanted ME to take her to a cardiologist, and that 'I wouldn't take her!'. I had asked Mrs. Brewer if she would please phone this sister (whom had phoned me) to straighten the story out. Well--she phoned! But, she made no effort to inform this sister that it was 'she' whom had recommended the cardiologist visit and NOT her 'doctor', she only mentioned that her sister would be seen by her cardiologist!

This physiciⁿ, as well as myself, was greatly offended by Mrs. Brewer's demands; as this last visit made the fourth (4th) in as many months for this resident to the doctor! I don't believe taxpayers would appreciate this type of drain of their medicaid/medicare dollars. This physician has been treating my resident for 5-6 years, and I have taken care of her for the same number of years. Mrs. Brewer, on the other hand, has seen this resident two (2) times in 1993, five (5) times in 1994, and three (3) so far this year.

58

Mary Amdall-Thompson

Page 2

May 5, 1995

Mrs. Brewer again visited my home on April 19, 1995. During this visit, her attitude was rude and hostile. It was evident she was angry about something. She visited with the residents privately in their rooms and proceeded to chart in their progress notes, not yet even speaking to me, or inquiring of me about the residents well-being/progress. It is beyond my comprehension how any nurse can make an accurate assessment/report on a patient if she doesn't even speak to the caregiver.

When she finished charting, she asked me why I had not taken her to a cardiologist. I explained that her physician did not give a referral. She stated that I did not need a referral. I replied that that was not my understanding of the 'system'. I asked Mrs. Brewer if you should take a resident to the cardiologist because they ARE having chest pains, or because they SAY they are having chest pains. Mrs. Brewer was rendered speechless, and looked at me as though I had totally LOST IT! Before she left, she was yelling at me in my living room in front of two (2) of my other residents and accusing me of threatening her! She upset me and my residents terribly! I don't feel this type of behavior is necessary or appropriate from a visiting nurse.

FURTHER, it is my belief that Mrs. Brewer is not being entirely honest in her written reports on my residents. In speaking with other caregivers, I find I am not alone in this belief.

Respectfully,

ROSEWOOD ADULT FOSTER CARE

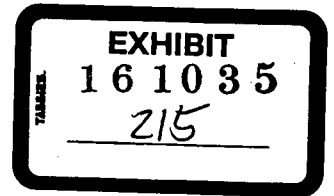


Dianna J. Roberts
Owner/Operator

cc: Betty Glantz, Aging Services - East Branch

bcc: Jean DeMaster

59



August 7, 1995

Several months ago my county contract nurse, Peggy Brewer, accidentally left her reports on my residents at my home. While looking them over, I discovered several discrepancies. I subsequently requested and received a new nurse.

FAT 761-3152

Ada Tyron



Pg. 60

~~P.O. Box 16042~~

7944 SE 162nd

PHN 97216

(George, I fax this to Ada this AM. She really does not want to sign. You may need to write her also)

EXHIBIT
161035

216

RE:
PE99/
BREWER

AFFIDAVIT

I, Ina Jespersen, currently reside at Rosewood Adult Foster Home located at 19390 N.E. Multnomah Ct., Portland, Oregon. I have been a resident of this home since April 2, 1988. This home is owned and operated by Dianna Roberts.

On April 1, 1995, my county contract nurse, Peggy Brewer, visited myself and Flonnie McClane. We were able to visit privately in my room as always. During this visit Mrs. Brewer informed me and Flonnie that our caregiver, Dianna Roberts, has, "a stack of complaints a mile high in her public file downtown from previous employees. Apparently, she can't keep help -- some lasting only a few days or even HOURS!!! She said, "They all phone in complaints!"

I offer this affidavit of my own volition and not due to duress of any nature. I swear the above to be a true and sworn statement.

Ina Jespersen
Ina Jespersen

STATE OF Oregon)
COUNTY OF Multnomah) SSS

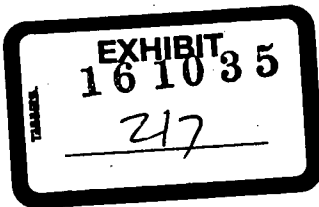
SUBSCRIBED AND SWORN BEFORE ME THIS 11 DAY OF October, 1995.

2-21-97
My Commission Expires

Julie Mason
(Notary Public)



P 961



CERTIFIED - Z 045 294 872 RETURN RECEIPT REQUEST
& 873

May 15, 1995

Bunny, Harold
Supervisor/Contract Nurses
Aging Services Division
P.O. Box 16633
Portland, OR 97216

Dear Bunny,

SUBJECT: 2ND REQUEST - REASSIGN CONTRACT NURSE

As per our phone conversation on April 18, we agreed that I would allow Peggy Brewer to continue as my visiting nurse. Please be advised that, although I appreciated your reassurance that nobody was trying to 'close me down', it was never my belief that Mrs. Brewer or any one else was 'trying to close me down.'

You further advised me that you had had a conference with Mrs. Brewer, John Chabin and who knows how many others, and had consulted Mary Fassell who informed you that I would never be allowed to refuse admittance to Mrs. Brewer or any one else. Bunny, I never ever indicated to you that I planned to do this. I simply, politely, and confidentially (I thought) was requesting that you reassign me a difference nurse.

Without making a federal case of it, since I do not feel that my original request was given fair consideration; I hereby am making a second request that you reassign me a different nurse.

Please advise.

Respectfully,

ROSEWOOD ADULT FOSTER CARE

Dianna J. Roberts
Owner/Manager

cc: Betty Glantz, Manager - East Branch

*I would/should
have been
Able to participate
D.R.
6 people*

Pg 65

Z 045 294 872



Receipt for Certified Mail

No Insurance Coverage Provided
Do not use for International Mail
(See Reverse)

Sent to	Betty Glantz Manager
Street and No.	East Avenue P.O. Box 16633
P.O. State and ZIP Code	Portland 97216
Postage	\$ 32
Certified Fee	1.10
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	1.10
Return Receipt Showing to Whom, Date, and Addressee's Address	
TOTAL Postage & Fees	\$ 52
Postmark or	

PS Form 3800, March 1993

Z 045 294 873



Receipt for Certified Mail

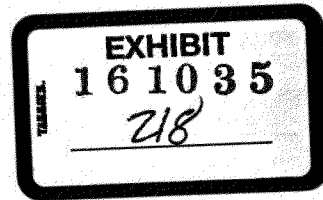
No Insurance Coverage Provided
Do not use for International Mail
(See Reverse)

Sent to	Bunny Harrod Acting S.R. Division
Street and No.	P.O. Box 16033
P.O. State and ZIP Code	Portland, OR 97216
Postage	\$ 32
Certified Fee	1.10
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	1.10
Return Receipt Showing to Whom, Date, and Addressee's Address	
TOTAL Postage & Fees	\$ 52
Postmark or	

PS Form 3800, March 1993

P966

Notes:



12-30-92	Donna	Pg 31
2-3-93	"	34
4-2-93		37
6-3-93	"	40
10-12-93	Peggy	49
12-8-93	"	54-B
2-1-94	"	56
3-29-94		59
8-3-94	"	61

9-29-94

Taxi Accident Cab 62

OK Barry Davis 9-21-94

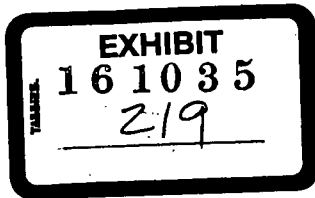
ORT. 10-20-94

ORT. 12-12-94

Carlene

m. y. self

Pg. 67



April 21, 1995

NOTE: This Letter was
NOT MAILED. A
SECOND Request Letter
WAS MAILED ON 5-15-95
D. Roberts

Bunny Harold
Supervisor/Contract Nurses
Aging Services Division
P.O. Box 16633
Portland, OR 97216

Dear Bunny:

SUBJECT: 2ND REQUEST - REASSIGN CONTRACT NURSE

As per our phone conversation on April 18, we agreed I would allow Peggy Brewer to continue as my contract nurse. Peggy subsequently came out on April 19th. To put it mildly, this visit did not go well. We ended the visit with a very heated argument in my living room in front of my residents.

I divorced my husband many years ago because he could not control his temper. I cannot allow this type of behavior in my home. In my ten (10) years in business I have never found it necessary to request a different nurse from either the county or any of the private visiting nurse agencies. I feel that my original request was taken too lightly. And, further, that the decision by various employees of the county that I would have to cooperate with my current nurse was unconscionable, irresponsible and inappropriate!

When Peggy came out, I opened the door myself. She did not greet me but continued directly to the residents bedroom. After visiting with my residents she ask for the book, and sat at the kitchen table to record her notes. Her manner clearly represented that she was angry. I sat at the table to wait for her to finish, as I intended to apologize for requesting a different nurse, and to explain why I had done so. I did apologize, but she stated that she was angry that I had not taken Flonnie McClane to a cardiologist that she had recommended in December. She said I did not a need her physician's referral as I understood. Since her primary physician did not give a referral, I did not proceed with the cardiologist. She further stated that she 'wasn't sure this was the best placement for Flonnie.' (Note: Flonnie has been in my care since April 1, 1989 and is not requesting to move.)

Bunny Harold
Page 2
April 21, 1995

Without making a federal case of this issue, please understand that the working relationship between Peggy and myself is irreparable; i.e. irreconcilable differences. Peggy upset me so much that one of my little ladies ask me if I was alright when she left. You, yourself, had to prompt me to calm down before I had a stroke, when I phoned you after she had left. This type of stress is unnecessary.

As you explained, Mary Fassell, indicated that I could not refuse entrance to anyone. Please let me clarify that I never intended to refuse entrance to Peggy; however, I never, in my wildest dreams, expected that my original request would be denied. Bunny, I do not live in a glass house. I am in contact with other providers, and am aware of other serious complaints on this particular nurse.

Bunny, I will await your response. Please do so in writing, as my notebooks are full to the brim with notes about 'phone conversations'. It's becoming apparent that I may need to invest in a tape recorder as Carol Isaman has recommended.

Respectfully,

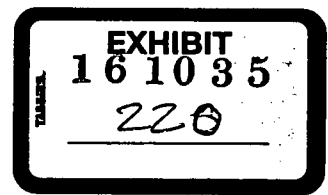
ROSEWOOD ADULT FOSTER CARE HOME

Dianna Roberts

Dianna J. Roberts
Owner/Manager

70

AFFIDAVIT



I, Cheryl Banks, work at Dianna Roberts Adult Care Home. I was on duty the day that Mary Fassell and Melinda Maxwell (September 5, 1995) came out with their portable photocopying machine and copied three (3) of Dianna's notebooks containing patient care plans, progress notes, medication charts, etc. including her former patient, Flonnie McClane's records. They also copied all the pages in a binder boldly marked CONFIDENTIAL.

On October 11, 1995, Dianna informed me that they were coming out again to copy records back seven (7) years, since one of her residents has been with her that long. In Annette Potts letter of September 12, 1995, she also states the same -- that she wants records back seven (7) years. I worked ALL that day and no one showed up or even afforded Dianna the courtesy of a phone cancellation.

I have read Jean DeMaster's letter of October 13, 1995 in which she suspended an additional 30 days of admissions to Dianna's home. In this letter she claims Dianna has refused to allow her records to be photocopied. This is simply not true. I was also working on September 15, 1995, when Jean DeMaster called and cancelled an appointment on that day as well indicating Mary Fassell had suddenly-taken ill and gone home for the day.

I have also read Jean DeMaster's letter of September 15, 1995, imposing an additional 30-day suspension of admissions. This adds up to three (3) suspensions totaling 90 days. In this letter she enclosed and sited a complaint which read:

- 1) Resident #1 threw food at resident #2.
- 2) Resident hit caregiver, caregiver quit.

To impose a total of 90 days of suspensions for the actions of residents is unconscionable. These actions should in no way be regarded as a "complaint".

I SWEAR THE ABOVE TO BE A TRUE AND SWORN STATEMENT OFFERED OF MY OWN VOLITION AND NOT DUE TO DURESS OF ANY NATURE.

Cheryl M Banks
Cheryl Banks

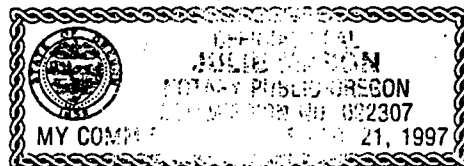
SUBSCRIBED AND SWORN BEFORE ME THIS 16 DAY OF Oct, 1995.

COUNTY OF Multnomah
STATE OF Oregon) SSS

2-21-97
My Commission Expires



Julie Mason
(Notary Public)





RECORD KEEPING CHECK LIST

Aging Services Division (503) 248-3646
Adult Care Home Program (503) 248-3000
421 SW 5th, Room 405
Portland OR 97204-2221



Operator Dianna Roberts Date 11/2/94

Form: INA ORLA POULINE FLORENCE VERNO
JESPERSEN MCGINNIS S. GERMINE McCLINE PETERS
Name Name Name Name Name

Resident Info Sheet ✓ ✓ ✓ ✓ ✓

Physician's Order ✓ ✓ ✓ ✓ ✓

Medication Sheet ✓ ✓ ✓ ✓ ✓

Screening Sheet ✓ ✓ ✓ ✓ ✓

Care Plan ✓ ✓ ✓ ✓ ✓

Progress Notes ✓ ✓ ✓ ✓ ✓

Admission Agreement ✓ ✓ ✓ ✓ ✓

Possession List ✓ ✓ ✓ ✓ ✓

Nurse Delegation ✓ ✓ ✓ ✓ ✓

LTC Form ✓ ✓ ✓ ✓ ✓

Money Management ✓ ✓ ✓ ✓ ✓

Other: ✓ ✓ ✓ ✓ ✓



JUDY FOWLER
LICENSING AGENT

MULTNOMAH COUNTY OREGON

ADULT CARE HOME PROGRAM
421 S.W. 5TH, RM. 405
PORTLAND, OR 97204-2221
248-3000 ext. 2837

Comments:

Records look great!!

The above items that are indicated as missing MUST be included in the resident records. Please correct any missing items by _____ and contact our office when they are completed. Thank you,

J. Fowler
Signature / License Agent

DRH
Signature / Operator

RE: PEGGY
BREWER

CERTIFIED Z 045 294 970 Return Receipt Request

*

May 31, 1995

Betty Glantz, Manager
East Branch - Aging Services
Multnomah County
P.O. Box 16633
Portland, Oregon 97216

After Betty received this letter (I believe it was June 5th - a Monday), she phoned me & said she would assign a new nurse, "but that she wouldn't be forgetting this." I never received a 'new' contract nurse until Rosalyn Crocker and Judy Hubbard came out on August 8th. Their (Rosalyn's) manner gave me the impression of a 'hit team'. Rosalyn insisted on coming out, even though I told her that Flo's family wanted to be present, and that Jackie was at the beach.

D. Roberts

Dear Ms. Glantz:

Re: Request to reassign contract nurse - Peggy Brewer, R.N.

Confirming your telephone calls of May 23-25, 1995 during which you requested to meet with me to discuss my request for a different visiting contract nurse.

Since this is my second request, I trust you will give it full consideration with an open mind; although you stated, "that you warn me that you do not believe in granting these types of request."

Since the primary basis of my request lies in the belief that Mrs. Brewer has not been completely honest in her reports on my residents and on my home, please provide me with copies of all reports and notes submitted by Mrs. Brewer during her visits over the last two (2) years. Also, please advise how many other providers have requested different nurses, names of those providers, dates of those request, and how they were answered. (Copies of these request will ultimately be required.)

I will require this information prior to our meeting in order to adequately prepare. Please provide these copies within ten (10) days.

Respectfully,

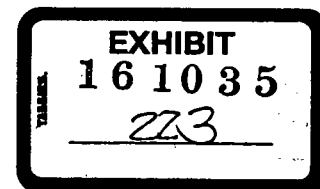
D J Roberts

Dianna. J. Roberts

cc: Elaine Castllo, Manager - Portland Impact
George Williams, Atty.



334



RE:
PEGGY
BREWER
R.N.

RECEIVED

AUG 25 1995

ADULT CARE HOME PROGRAM

August 24, 1995

Ms. Carol Isaman
Aging Services Division
Multnomah County Oregon
421 S.W. 5th, 4th Floor
Portland, OR 97204-2221

Dear Carol:

Confirming our phone conversation of August 23, 1995 regarding my contract nurse Peggy Brewer. Last week I had called you to confirm information about when Peggy Brewer was the contract nurse for Ada Tyron's adult foster care homes. Ada had explained to me that 1-2 years ago she had requested a different contract nurse, actually, she had requested Allison Belcher and this request was granted. Ada also had told me that the actual reason she had made this request was because of the notes Peggy had written about her own home that Ada did not feel were accurate. Although Ada did not make a 'formal' complaint at that time, she was granted a different nurse.



You confirmed this information with me. I explained to you also that I did not choose to make a 'formal' complaint, but that I had no alternative. Ada's fiancée, Bob, also confirmed this information.

I thank you for returning my phone call, and for your cooperation in this delicate matter.

Respectfully,

ROSEWOOD FOSTER CARE HOME

Dianna J. Roberts

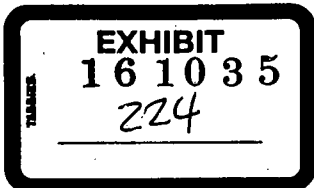
Dianna J. Roberts
Owner/Operator

DJR

cc: Ada Tyron
Jim McConnell
Carol Rex
Jean DeMaster
Emily Simon

P.S. If I have misinterpreted any area of the subject conversation, please advise.

14



RE: PEGGY
BREWER
R.N.

AFFIDAVIT

I, Flonnie O. McClane, currently reside at Rosewood Adult Foster Care Home located at 19390 N.E. Multnomah Ct., Portland, Oregon. I have been a resident of this home since April 1, 1989. This home is owned and operated by Dianna Roberts.

On April 19, 1995, my nurse, Peggy Brewer, visited me. We were able to visit privately in my room as always. During this visit Mrs. Brewer informed me that my provider, Dianna, has, 'a stack of complaints a mile high in her file downtown from previous employees. Apparently, she can't keep help -- some lasting only a few days or even hours! They all phone in complaints!'

I offer this affidavit of my own volition and not due to duress of any nature. I swear the above to be a true statement.

DATE 5-16-95

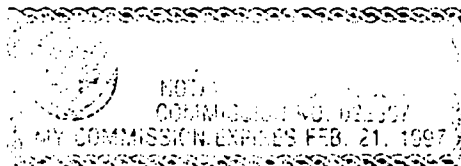
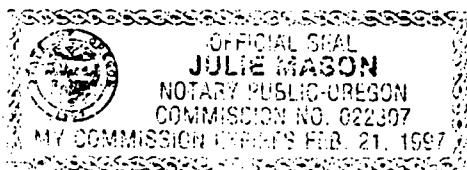
Flonnie O. McClane
Flonnie O. McClane

STATE OF Oregon)
COUNTY OF Multnomah) SSS

SUBSCRIBED AND SWORN BEFORE ME THIS 16 DAY OF May, 1995.

2-21-97
My Commission Expires

Julie Mason
(Notary Public)



344

AFFIDAVIT

I, Jackie Doak, have listened to the tape of the conference regarding my mother, Flonnie McClane's, allegation that Dianna Roberts borrowed \$5-10 for groceries from her. This conference was held in the conference room of the Adult Foster Care Home Program, located at 421 S.W. 5th, Rm. 405, in Portland, Oregon on June 22, 1995. During this conference Jean DeMaster, Manager of the Program, was quite rude to Mrs. Roberts and not interested in anything my brother-in-law, Winfield Scragg, or myself had to say.

The tape has clearly been tampered with as it contains very little of our testimony in Mrs. Roberts' behalf. I did not then, nor will I ever be convinced that Mrs. Roberts borrowed money from my mother. I am informed that you have refused to take this substantiated complaint off her record, or even allow for it to be re-investigated. Although, I do not consider my mother incompetent, she does have tendencies to fabricate stories for attention.

Your agency has moved my mother five (5) times since August 14th, which brings the total number of times she has been moved this year to seven (7). My brother and sister are terribly upset with the treatment my mother has received at the hands of your agency. We were very satisfied with the care Mrs. Roberts provided our mother the past six (6) years. I SWEAR THE ABOVE TO BE A TRUE AND SWORN STATEMENT.

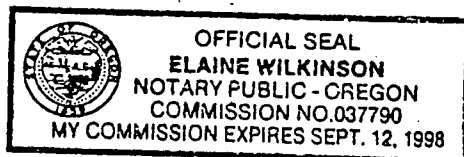
Jackie Doak
Jackie Doak

SUBSCRIBED AND SWORN BEFORE ME THIS 12 DAY OF October, 1995

COUNTY OF Multnomah
STATE OF Oregon } SSS

Sept 12, 1998
My Commission Expires

Elaine Wilkinson
(Notary Public)



4
385

AFFIDAVIT

I, Jackie Doak, have listened to the tape of the conference regarding my mother, Flonnie McClanahan, on that Dianna Roberts borrowed \$5-10 for groceries. The conference was held in the conference room, located at 421 S.W. 5th, Rm. 405.

#225
Last 2 sentences
was the only
part that was
received.

During this conference Jean DeMaster, sister to Mrs. Roberts and not interested in the case, did not say, or myself had to say.

As it contains very little of the truth, I did not then, nor will I ever be one from my mother. I am informed that the complaint off her record, is not true. Although, I do not consider it an indication to fabricate stories for

Your brother and I have been with the treatment my mother has received from your agency. We were very satisfied with the care Mrs. Roberts provided our mother the past six (6) years. I SWEAR THE ABOVE TO BE A TRUE AND SWORN STATEMENT.

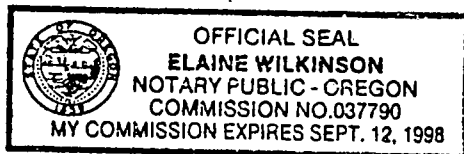
Jackie Doak
Jackie Doak

SUBSCRIBED AND SWORN BEFORE ME THIS 12 DAY OF October, 1995

COUNTY OF Multnomah
STATE OF Oregon } SSS

Sept 12, 1998
My Commission Expires

Elaine Wilkinson
(Notary Public)



4
385

EXHIBIT
161035
226

AFFIDAVIT IN THE MATTER OF DIANA ROBERTS
AND OREGON AGING SERVICES.

I Wintfield Scragg, being first duly sworn
upon oath, deposes and states the following

1. I was present and attended the meeting at
Aging Services held on June 22, 1995.
2. It was my understanding that the matters
discussed at that meeting were settled and
finished.
3. The tape of that meeting has been edited
and does not contain everything that was stated
by myself and my sister-in-law, Jaqueline Doak.
4. I believe that the record should stand
as we left it on June 22, 1995, complete and
finished.
5. Ms. Diana Roberts gave complete and
excellent care to my mother-in-law, Flonnie
McClane, throughout the many years she was
in Ms. Roberts care.
6. My wife, Darlene Scragg, (Flonnie McClane's
daughter) and I arrived with no notice to check
on Flonnie McClane and we never found her or
any of Ms. Robert's patients, being mistreated
or ignored. We saw nothing but the best of
treatment. The house was very clean and the
bathrooms were clean and in good working order.
The food was plentiful and well prepared.
7. I would not hesitate to place any of my

346

#226

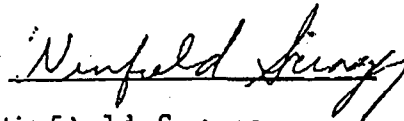
#5-8 were the
only part of
this document
that was
received. DS

friends, relatives or myself in Ms. Roberts care.

8. Flonnie McClane, in the time I have known her, will do and say anything to get her own way. She will make up stories and swear they are true. She loves to create scenes and fake illness so she can go to a hospital. I cannot tell you how many times the family has rushed to the hospital only to find she has faked another illness and the doctors can find nothing wrong with her. She has just recently done this again as you can check with Providence Hospital on Oct. 7th, 1995.

9. I do not think that patients should be withheld from Ms. Robert's care because of the imagined or glorified claims of my mother-in-law Flonnie McClane.

DATED this 11 day of October, 1995, at Anchorage, Alaska.

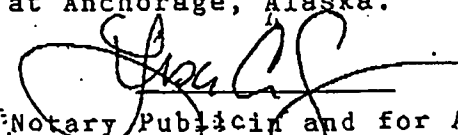


Winfield Scragg
1920 E. 66th
Anchorage, Alaska 99507

SUBSCRIBED and SWORN to before me this

11th day of October, 1995, at Anchorage, Alaska.





Notary Public in and for Alaska
My commission expires: My Commission Expires
October 22, 1996

347

April 20, 1995

I am aware Flanning McClane
has made the allegation that her
care giver has borrowed
\$40 for groceries.

In my opinion this
allegation is :

☐ True
☒ Not True
☐ Most likely NOT True.

Signed Theresa Eubanks
DR. THERESA EUBANKS

Date 4.20.95

AFFIDAVIT




I, Flonnie O. McClane, currently reside at Rosewood Adult Foster Care Home located at 19390 N.E. Multnomah Ct., Portland, Oregon. I have been a resident of this home since April 1, 1989. My caregiver and the owner of this home is Dianna J. Roberts. At no time during these years has Dianna borrowed any monies from me.

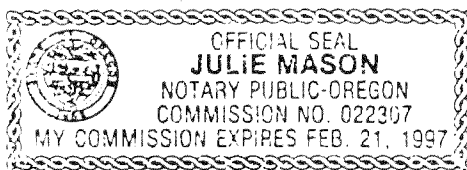
I offer this affidavit of my own volition and not due to duress of any nature.


I swear that the above is a true statement.

DATED this 12 day of April, 1995.

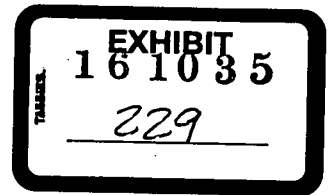

Flonnie O. McClane

SUBSCRIBED AND SWORN to before me this 12th day of April, 1995.




Notary Public
My Commission Expires: 2-21-97

P933



AFFIDAVIT

My mother, Verna G. Rogers, has been a resident of Rosewood Adult Foster Care Home located at 19390 N.E. Multnomah Ct., Portland, OR. since March 23, 1993. At no time during these years has she had any monies in her possession.

I offer this affidavit of my own volition and not due to duress of any nature. I swear that the above is a true statement.

DATE 4-12-95

Owen K Rogers
Owen K. Rogers

DATED THIS 12th day of April, 1995.

STATE OF Oregon }
COUNTY OF Multnomah } SSS

SUBSCRIBED AND SWORN TO BEFORE ME THIS 12th DAY OF April, 1995.

2-21-97
My Commission Expires

Pa. 34

Julie Mason
(Notary Public)



EXHIBIT
16 1035
230

AFFIDAVIT

I, Ina I. Jespersen, currently reside at Rosewood Adult Foster Care Home located at 19390 N.E. Multnomah Ct., Portland, Oregon. I have been a resident of this home since April 2, 1988. My caregiver and the owner of this home is Dianna J. Roberts. At no time during these years has Dianna borrowed any monies from me.

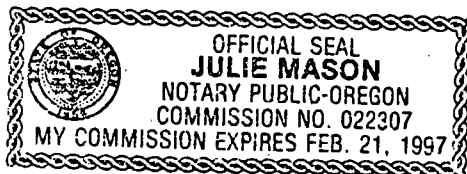
I offer this affidavit of my own volition and not due to duress of any nature.

I swear that the above is a true statement.

DATED this 12th day of April, 1995.

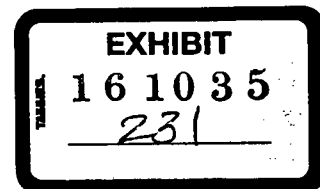
Ina I. Jespersen
Ina I. Jespersen

SUBSCRIBED AND SWORN to before me this 12th day of April, 1995.



Julie Mason
Notary Public
My Commission Expires: 2-21-97

Pg. 35



AFFIDAVIT

My mother, Pauline St. Germaine, has been a resident of Rosewood Adult Foster Care Home located at 19390 N.E. Multnomah Ct., Portland, Oregon since April 12, 1993. At not time during these years has she had any monies in her posession.

I offer this affidavit of my own volition and not due to duress of any nature. I swear the above to be a true statement..

DATE 4-17-95

Darold E. Steiner
Darold Steiner

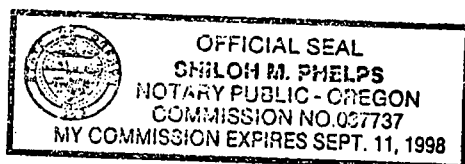
DATED THIS 17th day of April, 1995.

STATE OF Oregon
COUNTY OF Multnomah } SSS

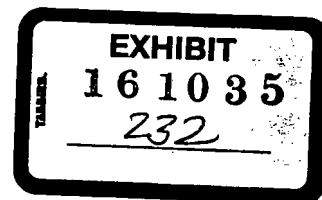
SUBSCRIBED AND SWORN BEFORE ME THIS 17th DAY OF April, 1995.

Sept 11, 1998
My Commission Expires

Shiloh M Phelps
(Notary Public)



P. 36
9.



AFFIDAVIT

I, Orla E. McGinnis, currently reside at Rosewood Adult Foster Care Home located at 19390 N.E. Multnomah Ct., Portland, Oregon. I have been a resident of this home since October 3, 1992. My caregiver and the owner of this home is Dianna J. Roberts. At no time during these years has Dianna borrowed any monies from me.

I offer this affidavit of my own volition and not due to duress of any nature.

I swear that the above is a true statement.

DATED this 12th day of April, 1995.

Orla E. McGinnis

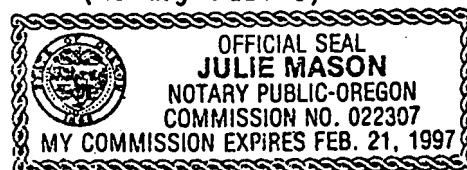
Orla E. McGinnis

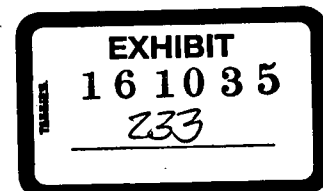
STATE OF Oregon)
COUNTY OF Multnomah) SSS

SUBSCRIBED AND SWORN TO BEFORE ME THIS 12th DAY OF April, 1995.

2-21-97
Commission Expires

Julie Mason
(Notary Public)





STATEMENT OF TOM GLENN

RE: DIANNA ROBERTS

On May 17, 1995, I visited Mrs. Roberts' care home. She relayed to me the issue of a complaint where it was substantiated that she had borrowed monies from a resident. In the course of my visit, I had the opportunity to talk with this resident, Flonnie McClane, and I asked her if she, or anyone in the home, had borrowed money from her. SHE INDICATED THEY HAD NOT!

During the week of June 12, I received a letter from the Aging Services Division requesting I participate in a conference on June 22nd. I was unable to attend due to my work. On June 26th, Mrs. Roberts phoned me to see if I was willing and available to join her in a meeting with Jean DeMaster later that week, if she could arrange it; since I had missed the June 22nd conference. I indicated that I was off work on Wednesday and Thursday and would be available and willing to join her on either of those days.

Mrs. Roberts indicated the purpose of the meeting was regarding the substantiated complaint in her public file regarding the borrowed monies. She phoned me back the following day and indicated she was able to arrange a meeting on June 29 with Jean DeMaster. I stated I had just spoken with Jean and agreed to be there and PROVIDE THIS TESTIMONY FOR MRS. ROBERTS, WHICH I DID.

At some point following my visit on May 17th, and prior to June 29, my area supervisor for the ombudsman program phoned me regarding a complaint she had received from Peggy Hulse, a conservator. Peggy was upset because Mrs. Roberts had phoned Jan Hill, the owner of Holgate Care Center, regarding a client she had in residence there. My supervisor said she felt Peggy was "over-reacting". Under the circumstances, since Mrs. Roberts never phoned Peggy's client directly nor visited her at the care center, I have to agree with my supervisor that Peggy was over-reacting.

Date

Tom Glenn, Ombudsman
3846 S.E. 149th
Portland, OR 97236
(503) 760-6450

107

Tom now working for A.S.D.
as of 10-1-95,
so she can't
sign this
now.

EMILY SIMON

620 S.W. FIFTH SUITE 1204
PORTLAND, OREGON 97204
FAX 503 241-2587

ATTORNEY AT LAW

503 241-1553

GEORGE WILLIAMS
ATTORNEY AT LAW

September 6, 1995



BY HAND DELIVERY

Jean DeMaster
Adult Foster Care Home Program
421 SW Fifth Avenue
Room 405
Portland, Oregon 97204-2221

Re: Dianna Roberts and Rosewood Foster Care

Dear Ms. DeMaster:

Pursuant to the agency's administrative rules, we are requesting a formal hearing on the allegations raised in your August 18, 1995 letter to Ms. Roberts. We request a hearing to contest the allegations in the complaints referred to in the agency's August 18th letter.

We hereby waive the ten-day notice requirement under Multnomah County Licensing Ordinance 8.90.090(B).

We are requesting a formal hearing to preserve Ms. Roberts' due process rights; however, we believe this matter can be better resolved without a hearing and are therefore requesting a conference with you, as is also suggested in your August 18, 1995 letter. We have a proposal to present to the agency which we think will resolve this matter to the satisfaction of all concerned parties and would like to meet with you to discuss it as soon as possible. We are available to meet with you during the afternoon of September 8, all day on September 11, the afternoon of September 12, and anytime on September 13 through 15.

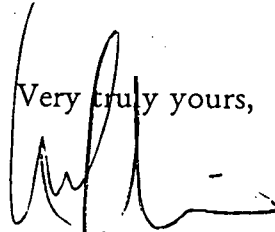
Also, I understand that county employees have gone to my client's home and are copying documents. Please be advised that this is unnecessary. If there are any additional documents that you would like to review, please let me know and we will gladly provide them.

13A

page 2

Thank you for your kind attention and consideration in this matter. Please do not hesitate to call my office to schedule a meeting at your earliest convenience, or if you have any questions or concerns about this matter.

Very truly yours,



Emily Simon
Attorney at Law

ES:lbw


cc: client
demaster.ltr

13 B

CERTIFICATE OF SERVICE

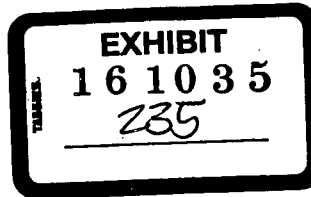
I hereby certify that I have made service of the foregoing letter on Jean DeMaster of the Adult Foster Care Home Program by hand delivery on September 6, 1995, a certified true, exact and full copy thereof addressed to her at her regular office address to-wit:

Jean DeMaster
Adult Foster Care Home Program
421 SW Fifth Avenue
Room 405
Portland, Oregon 97204-2221



LESA WOLMAN

13C



File Copy

MULTNOMAH COUNTY OREGON

AGING SERVICES DIVISION (503) 248-3646
ADULT CARE HOME PROGRAM (503) 248-3000
421 SW 5TH, ROOM 405
PORTLAND, OR 97204-2221

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN • CHAIR OF THE BOARD
DAN SALTZMAN • DISTRICT 1 COMMISSIONER
GARY HANSEN • DISTRICT 2 COMMISSIONER
TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

August 18, 1995

Dianna Roberts
19390 NE Multnomah Court
Portland, Oregon 97230

Dear Dianna,

The Adult Care Home Program is currently in the process of investigating 5 complaints/protective services reports regarding your Adult Care Home. All of these have been filed with the Aging Services Department in the last few weeks. You have received copies of the first four complaint forms; I am enclosing the fifth complaint form. Complaint forms are utilized to register a complaint as it is received; after each complaint is fully investigated, a written report is completed and filed.

In addition, I have reviewed the material in your Adult Care Home Program file from 1986 to 1994. The record shows that a substantial number of complaints and/or protective service reports have been filed against your home during this period.

You have acquired a substantial complaints history pertaining to the health, safety, and/or welfare of the residents of your home (MCAR 890-080-120 (k) (I)). Some of the allegations in the complaints are very serious. Because of this, the Adult Care Home Program Office has the authority to impose administrative sanctions according to Multnomah County Licensing Ordinance 8.90.080, which states:

(A) The Director shall have the authority to revoke, suspend, or deny, or attach conditions to any license for an adult care home under the following circumstances and such other circumstances as may be established by rules adopted under this chapter:

...

*

(2) Where there exists a threat to the life, health, safety, or welfare of any resident.

(3) Where there is reliable evidence of abuse, neglect, or exploitation of any resident.

(4) When the owner or operator has failed to comply with the provisions of this chapter (Chapter 8.90); with city and county codes and ordinances; with the rules and standards duly promulgated by the Director for an adult care home; or any other state or federal law or rule applicable or relevant to the health and safety of a resident.

41

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Under this authority, the Adult Care Home Program Office attaches the following condition to your license;

IMMEDIATE SUSPENSION OF ADMISSIONS

Effective August 18, 1995 and until further notice, it is a condition on your license that you not admit any new residents into your Adult Care Home. Upon completion of the five complaint reports/protective services investigations and, in a period not longer than 30 days, the Adult Care Home Program shall either take further action regarding these complaints or shall remove this condition on your license.

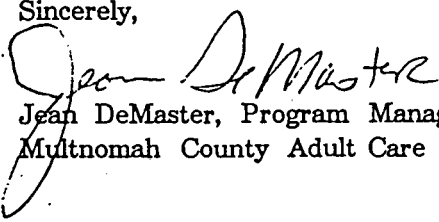
You have a right to request a conference with me as the Adult Care Home Program Manager. To request a conference call me at 248-3000 extension 6458 or send a written request to:

Adult Care Home Program
421 SW Fifth Avenue
Room 405
Portland, Oregon 97204

You also have the right to request a hearing before an independent Hearings Officer. To do so send a written request stating your reasons for the hearing to the address shown above. We must receive your request for a hearing before an independent Hearing Officer within 20 days of your receipt of this notice (MCAR 890-090-100 thru 150). This office's file on your Adult Care Home would automatically become part of the information available to the Hearing Officer. If you do not request a conference or hearing, this action will become final.

Please call me if you have any questions.

Sincerely,


Jean DeMaster, Program Manager
Multnomah County Adult Care Home Program

cc: Carole Isaman, Licensing Agent
Mary Fassell, Sanctions Specialist,
Carol Rex, Deputy Director, Aging Service Department
Jim McConnell, Director, Aging Services Department

Catherine Gaetjens, Multnomah County Counsel

Emily Simon, Attorney at Law

42

~~88~~

NEWTON, COTTLE & WESTENHAVER, P.C.

ATTORNEYS AT LAW

4000 KRUSE WAY PLACE, BLDG 1, SUITE 265

LAKE OSWEGO, OREGON 97035

(503) 697-7272

FAX (503) 636-6995

*ALSO ADMITTED IN CALIFORNIA

MARK O. COTTLE
GREGORY C. NEWTON*
DANA A. WESTENHAVER

September 18, 1995

VIA FACSIMILE 306-5722

Multnomah County
Aging Services/Adult Homes
Gene DeMaster
421 SW 5th Room 405
Portland, OR 97204-2221

RE: *Dianna Roberts @ 19390 N.E. Multnomah Ct.*

Dear Ms. DeMaster:

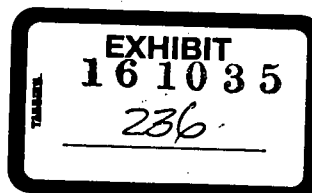
My above named client requests a hearing on the issues presented in your issuance of a temporary sanction, September 15, 1995 letter, against my client accepting new residents.

My client requests a complete copy of her file. Once it is ready, please contact me and will arrange for payment of the copy costs and have it picked up.

Very truly yours,

Mark O. Cottle

Jean, as of October 5, 1995, I have not received the complete file of Ms. Roberts. I have her public disclosure file, but I need the complete file. When will it be ready to be picked up?



NEWTON, COTTLE & WESTENHAVER, P.C.

ATTORNEYS AT LAW
4000 KRUSE WAY PLACE, BLDG 1, SUITE 265
LAKE OSWEGO, OREGON 97035
(503) 697-7272

MARK O. COTTLE
GREGORY C. NEWTON*
DANA A. WESTENHAVER

FAX (503) 636-6995
*ALSO ADMITTED IN CALIFORNIA

September 22, 1995

Adult Foster Care Home Program/Multnomah County
Jean DeMaster
421 SW 5th, Room 405
Portland, OR 97204-2221

RE: *Dianna Roberts*

Dear Jean:

I have reviewed the complaints at issue with regards to the administrative sanctions. There are however, two issues that must be resolved prior to addressing the complaints.

1. Rule 890-080-400 Attorney Fees: It is my client's position that your agency is without authority to enforce this provision and said provision violates her Due Process rights as specified by the United States Constitution. I also find no statutory authority for this provision. Quit the opposite, ORS 183.497 allows for my client's attorney fees to be awarded but does not allow your agency's attorney fees to be awarded.

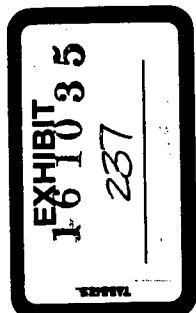
Prior to a hearing, it is demanded that your agency, in writing, state that Rule 890-080-400 is unenforceable. My client views your attempt to collect attorney fees as a means of thwarting ever Provider's Due Process.

Unless we receive written confirmation with regards to this issue within 7 days we will file for an injunction.

2. 890-080-120(k)(I) states "Has acquired substantial complaints pertaining to the health, safety, and welfare of residents." It is my client's position that this provision of the rules is unenforceable as it also violates Due Process.

If a complaint has been lodged against my client and your agency does an investigation and is unable to substantiate the complaint, it is without authority to impose any sanctions. The question then arises, how can you impose "Administrative Sanctions" based upon those prior complaints? Your agency is without authority to consider unsubstantiated complaints when it imposes any Administrative Sanctions. To allow your agency to consider unsubstantiated complaints when it imposes essentially temporary sanctions violates the very core of due process. Also, even if you do impose sanctions for past substantiated complaints, and then years down the road you receive new complaints, which have not been substantiated, and you impose temporary sanctions, you essentially are making a Provider pay twice for the same complaint, and imposing penalties upon a provider for unsubstantiated complaints. Your whole process violates my client's due process rights.

I will now briefly review the complaints. I was not provided a date on which the



September 22, 1995

RE: *Dianna Roberts*

complaints were filed, so I will attempt to reference them for you.

A. This is a handwritten complaint, filed I believe on 9/12/95.

1. A/P threw food at A/V in W #1's AFH

Since we do not know who A/P is for sure, it is our belief that A/P is a resident with mental disabilities. She has been removed from the home, as you know, and therefore poses no threat to anyone in the home.

2. A/P hit AFH caregiver in the face and smacked her hard. Caregiver quit.

Again, it is our belief that A/P is a resident and as you know, the resident has been removed from the home.

B. This is a handwritten complaint.

1. The Complainant called and A/P hung up on Complainant and would not call A/V to the telephone.

This directly involve conduct by my client. The Complainant is another Provider who was unlawfully interfering in my client's business operation. Secondly, A/V has her own telephone and the Complainant has her number. It is the policy of this home that when a resident has h/her own phone, the resident's phone is to be used.

C. This is a handwritten complaint with 8 items.

1. My client nor her staff has ever commented the acts specified in number 1.

2. Both of the A/Vs have mental disabilities, it is not uncommon for either one of them to loose their wallet one day and find it the next.

3. This is true, as we understand the complaint. My client has a strict policy not to allow anyone to confront or argue with a resident.

4. This is not true. It is not the Provider that dictates the doctors of the Residents. It is the Guardian or Resident that makes this decision. The doctor that saw this A/V had been the Resident's doctor for years.

5. This is not true, A/V fell at about 3:00 a.m., my client helped her into bed after determining the resident was not in any pain. It was A/V's habit to sleep until 11:00 a.m. My client left at 9:00 a.m. leaving the residents in the care of a substitute caregiver (I believe the Complainant), when my client returned at approximately 4:00 p.m. she checked on A/V and called 911 as the resident was in pain. The patient went to the Hospital and then to a Nursing care facility where she died several months latter.

6. This is true. However, this resident, for the past 3 years, had been in the habit

(6)

of going to the bathroom without assistance. She fell and was taken to the hospital. As you know, some resident unfortunately fall and bruise themselves.

7. The complainant is attempting to use one persons hypochondria to get even with a past employer. A/V ("Flo") has for the past 6 years complained about chest and side pains. She did it every night. Every doctor's visit she was checked for chest and side pains and nothing was ever found.

8. This is simply untrue.

D. This is a typed document with 7 issues.

This entire complaint relates, as far as we know, to "Flo". It has been documented that Flo has mental disabilities. This complaint was commenced by my client. She request the ombudsmen to visit Flo at her new home, however, it was requested that Tom Glenn not be used, which was agreed upon, and sadly that agency demonstrated its lack of integrity and sent Mr. Glenn who came back with 7 complaints after an interview with a mentally dysfunctional person.

1. This is not true
2. This is not true, yes my client bought sweat suits but returned the money and receipts.
3. This is not true, as far as my client knows, A/V did not have an electric blanket.
4. This is untrue.
5. This is untrue. Actually it is Flo that slaps caregivers and residents.
6. This is untrue.
7. The dog weighs over 20lbs and my client is unable to hold it. The cat is not allowed on the counter top.

E. This is a typed complaint with three issues. They involve Mt Hood Medical Center.

1. A/V falls a lot and my client desires praise for admitting her to the hospital when this happens.

2. The complaintant does not make sense. On the one hand, A/V is going to the hospital "numerous time" and the provider "continued to bring A/V there [hospital]," but the doctor does not know about the frequency of the occurrence. Which is it, we take the resident to the hospital to much or not enough?

3. This is silly. My client is not in control of where the ambulance takes a patient. Check with the EMS board of your county, there are strict rules on transportation. Secondly, it is my client's understanding the Mt. Hood Medical Center is an acceptable provider for this A/V's HMO.

F. I did not receive a copy of the last complaint for some reason, my client told me what it consists of and I believe part of a police report.

Again this involves Flo.

(7)

September 22, 1995

RE: *Dianna Roberts*

1. A/P was withholding food and not taking care of A/V. This is untrue.
2. My client called 911 because Flo was being abusive and combative. This is true.
3. My client refuses to accept Flo into her home. This is true. Flo is a potential danger to the rest of the residents.

Although I am not sure who each A/V and A/P are and it is very difficult to respond to allegation when you do not know who the victim or perpetrator are, if my client is correct, I am shock that your agency suspended her admissions based upon these complaints.

The vast majority of the complaints regard Flo a person suffering mental difficulties. Your agency is using a confused woman to violate the law. My client will not stand for it. Flo cannot remember individuals she is associated with on a regular basis, let alone be trusted to remember past events. She is abusive, combative and at best a very difficult individual. Should this proceed, I will of course be forced to take Flo's deposition, which would be a sad state of affairs for this situation. It is my understanding that Flo does not have the capability to even act as a witness as she is mentally incompetent.

Each of the complaints have sever credibility problems. As professionals, your agency should be able to determine the weight given to complaints when they come in and contradict themselves, are derived from past employees who incriminate themselves in the complaint or are derived from a woman who is mentally dysfunctional and make such wild accusations (41 decree homes-have your investigator check the thermostat, I think you will find that it does not go that low), that the credibility of the whole complaint is called into question. It seems that your agency is missing one very clear point in being a regulatory agency, you do have discretion to give weight to complaints, just like a police officer has discretion to give credit to complaints.

These complaints just do not add up. On the one hand there is complaints that my client does not call 911 enough and on the other to much. She is even being accused of freezing the residents. 27 of your people have been in my client's home, they know what the temperature is. Enough is enough.

I also understand that you are now requesting my client's last 7 years of records. By what authority is this request made and for what purpose? Your agency's conduct is bordering on harassment.

Please reconsider your sanctions, your agency's conduct violates the law and unless the sanctions are lifted my client will file for injunctive relief and pursuant to the law, my client entitled to attorney fees if she prevails.

Very truly yours,


Mark O. Cottle

NEWTON, COTTLE & WESTENHAVER, P.C.

ATTORNEYS AT LAW
4000 KRUSE WAY PLACE, BLDG 1, SUITE 265
LAKE OSWEGO, OREGON 97035
(503) 697-7272

FAX (503) 636-6995

*ALSO ADMITTED IN CALIFORNIA

MARK O. COTTLE
GREGORY C. NEWTON*
DANA A. WESTENHAVER

October 20, 1995

Multnomah County
Aging Services/Adult Homes
Gene DeMaster
421 SW 5th Room 405
Portland, OR 97204-2221

RE: *Dianna Roberts @ 19390 N.E. Multnomah Ct.*

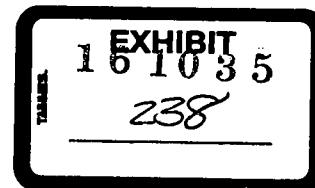
Dear Ms. DeMaster:

My above named client requests a hearing on the issues presented in your issuance of your last temporary sanction against my client accepting new residents. My client also would like an informal conference in order to resolve the problems. Lets schedule that right away.

Thank you for your time.

Very truly yours,

Mark O. Cottle



JAMES C. NIEDERMAYER

ATTORNEY AT LAW
2100 S.E. BELMONT STREET
PORTLAND, OREGON 97214

PHONE (503) 233-8550
FAX (503) 233-8560

P.O. BOX 4078
PORTLAND, OREGON 97208

October 26, 1995

HAND DELIVERY

Supervisor
Adult Care Home Program
Aging Services Division
Multnomah County
421 S.W. Fifth Ave., Room 405
Portland, OR 97204

Re: Dianna Roberts
Communication Dated 10/13/95 from Jean DeMaster
Concerning Suspension (Copy Enclosed)

Dear Supervisor:

In accordance with the authorization below, request
is made for a conference as well as a hearing in regard
to the above matter.

Very truly yours,

James C. Niedermeyer

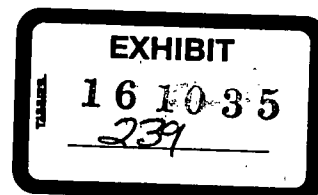
JCN:mc

Encl.

cc w/encl.: Catherine Gaetjens, County Counsel

IT IS SO AUTHORIZED.

Dianna Roberts



(11)

JAMES C. NIEDERMEYER

ATTORNEY AT LAW
2100 S.E. BELMONT STREET
PORTLAND, OREGON 97214

PHONE (503) 233-8550
FAX (503) 233-8560

P.O. BOX 4078
PORTLAND, OREGON 97208

October 26, 1995

HAND DELIVERY

Supervisor
Adult Care Home Program
Aging Services Division
Multnomah County
421 S.W. Fifth Ave., Room 405
Portland, OR 97204

Re: Dianna Roberts
Communication DATED 10/20/95 from Mary Fassell
Concerning Fine (Copy Enclosed)

Dear Supervisor:

In accordance with the authorization below, request
is made for a hearing in regard to the above matter.

Very truly yours,

James C. Niedermeyer

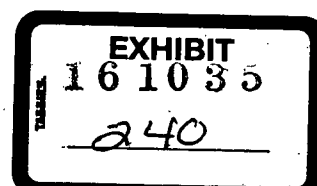
JCN:mc

Encl.

cc w/encl.: Catherine Gaetjens, County Counsel

IT IS SO AUTHORIZED.

Dianna Roberts



JAMES C. NIEDERMEYER

ATTORNEY AT LAW
2100 S.E. BELMONT STREET
PORTLAND, OREGON 97214

PHONE (503) 233-8550
FAX (503) 233-8560

P.O. BOX 4078
PORTLAND, OREGON 97208

November 17, 1995

HAND DELIVERY

Supervisor
Adult Care Home Program
Aging Services Division
Multnomah County
421 S.W. Fifth Ave., Room 405
Portland, OR 97204

Re: Dianna Roberts
Communication Dated 11/09/95 from Jean DeMaster
(Copy Enclosed)

Dear Supervisor:

In accordance with the authorization below, request
is made for a conference as well as a hearing in regard
to the above matter.

Very truly yours,

James C. Niedermeyer

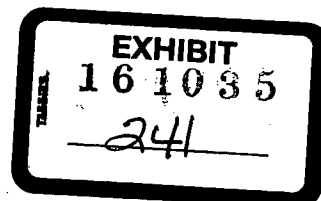
JCN:mc

Encl.

cc w/encl.: Catherine Gaetjens, County Counsel

APPROVED:

Dianna Roberts



(13)

January 2, 1995

Oregon State Bar Association
5200 S.W. Meadow Rd.
Lake Oswego, OR 97035-0889

Dear Bar Association:

RE: MARY FASSELL - MEMBER OF THE BAR

Please reference the enclosed letter. As a member of the bar, I believe Mary is breaking her oath as a member of your Association, as well as laws of the State of Oregon. Her actions are wide spread in Multnomah County.

I would like to lodge a formal complaint by way of this letter and ask for a complete investigation of her actions.

Please advise me of results of your investigation.

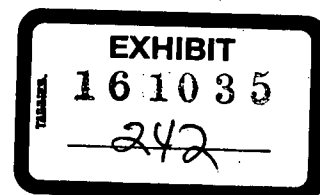
Respectfully,

ROSEWOOD CARE, INC.



Dianna J. Roberts
19390 N.E. Multnomah Ct.
Portland, Oregon 97230
666-9121

Enclosure



December 28, 1995

RESTRICTED DELIVERY
CERTIFIED - RETURN RECEIPT

Jean DeMaster, Manager
Adult Care Home Program
421 S.W. 5th, 4th Floor
Portland, OR 97204

Dear Ms. DeMaster:

Re: CONTESTED ADMINISTRATIVE CONFERENCE -- Complaint # 43867 - 2-1-94

I would like to request a Contested Administrative Conference with regard to the subject complaint. I am aware this request will not be considered requested 'in a timely manner'; however, nothing in regard to this complaint has been done 'in a timely manner' by the Adult Foster Care Home Program staff as mandated by SB 549. In lieu of those circumstances, which you can hardly refute, I request leniency with regard to the date of this request. Also, I have been under legal advice, since the June 26th conference, not to write or contact you. On August 17, 1995, I entered into a contract to lease my home to a currently licensed provider. This application was submitted to your office on August 21, 1995. A member of YOUR staff immediately contacted my lessee and intimidated her into backing out of the lease. There is no doubt a legal term for this action by your staff -- perhaps, contractual interference.

Initially, I was agreeable to allowing by attorney to represent me and concentrate on taking care of my ladies; however, the following attorneys (3 in all - at great expense to me) have written letters to you in my behalf requesting conferences within the time specified in the MCAR's as follows:

Emily Simon	-	September 6, 1995 (Suspension)
Mark Cottle	-	September 18, 1995 (Suspension)
Mark Cottle	-	September 22, 1995 (Sanctions)
Mark Cottle	-	October 20, 1995 (Suspension)
Mark Cottle	-	October 31, 1995 (Fine)
James Niedermeyer	-	October 26, 1995 (Fine)
James Niedermeyer	-	October 26, 1995 (Suspension)
James Niedermeyer	-	November 17, 1995 (Suspension)

To date, not one of the above have been able to provide me with written confirmation that you even received these requests let alone read or responded to them. It has been noted that

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Multnomah County has not been acting "in good faith". MARY FASSELL has copied confidential records of my private pay clients on two occasions -- a Violation of ORS 441.605.8. I have reviewed each of the 374 pages of 'my file' as requested by my attorney and prepared by MARY FASSELL spanning eleven (11) years. It is far from being COMPLETE!.

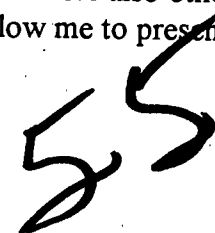
The reasons for this request are:

- 1) Issues were brought up at both the conferences held on June 22nd and June 26, 1995, which were unrelated to the complaint.
- 2) A report by Peggy Brewer, R.N. was read at the second conference, which was not true and was unrelated to the complaint.
- 3) Tom Glenn was unable to attend the first conference, even though he was sent a written invitation BY YOUR OFFICE; and yet you criticized me for requested a second conference so that he could give his testimony in my behalf "on the record".
- 4) Everything revolving around the first conference was disrupted due to a second conference being held downstairs with Mr. McConnell at 4:00 which allowed less than 1 hour for the original conference on June 22nd. The witnesses as well as myself were upset and more concerned with the immediate crisis at hand revolving around their mother's removal from my home than the conference agenda -- Complaint # 43867 - 2-1-94.
- 5) Issues were brought up at the conference on June 26th unrelated to the complaint, which I should have been advised about in advance in order for me to have my own attorney present. Your Sanctions Specialists, MARY FASSELL, is a licensed Oregon State Bar attorney, which served to represent the Adult Care Home Program and Aging Services Division, was present and tape recorded the conferences on both June 22nd and June 26th, 1995.
- 6) Copies of these taped conferences were requested by my attorney and provided to her by MARY FASSELL; however, these tapes were incomplete and highly edited. (A fact verifiable by 2 notarized affidavits in my possession from the 2 family members present.) I will need TRUE AND CERTIFIED COPIES of these tapes sent to me for my attorney to prepare for this Contested Administrative Conference. (Richard Nixon attempted to tamper with tapes and no longer has a job, which is exactly the position MARY FASSELL has placed herself, with one exception -- she still has a job.)

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- 7) On the June 26th conference, you and MARY FASSELL engaged in a collusive effort to discredit, embarrass, and humiliate me by having prepared approximately 7 areas that you sited where you felt my credibility was questionable. I am the one who requested this conference for the sole purpose of getting Tom Glenn's testimony regarding his interview with my resident, who made the allegation that I borrowed money from her, "on the record" that she told him neither I nor anyone in my home had borrowed money from her. I felt this information from an impartial volunteer ombudsman critical to my case. I expected a 5 minute conference. Had I been informed that you had other issues to bring forth, I would have brought my attorney. I feel these issues were brought up at an inappropriate conference at my expense where the agenda was Complaint # 43867 and whether or not you were going to allow this complaint to be reopened for investigation as was my request -- NOT THE QUESTION OF MY CREDIBILITY!
- 8) NONE of the following evidence, which I presented during the conference, was considered on June 22nd :
- a. Five (5) written signed and notarized affidavits, one from each of my residents, stating that I, nor in my home had ever borrowed money from them.
 - b. Three (3) personal individual testimonies -- 2 family members and 1 volunteer state ombudsman.
 - c. The resident's physicians' signed opinion that the allegation was 'NOT TRUE'. (The resident who was the original 'source of the complaint'.
 - d. Two (2) pages of recent Progress Notes giving an indication that the resident is prone to fabricating stories, verified by the staff at the Volunteers of America Day Care Center that this resident attended two days a week.
 - e. Eight (8) pages of photocopied cancelled checks (20) written by me to Safeway totaling \$1,815.00 over a 3 month period (not counting the occasional trips to Costco for staples and bulk items not available at Safeway).

Jean, I do not buy my groceries in \$5, 10, 20, or 40 increments (a figure never determined -- the amount kept changing depending on which page of the report you were reading) with money borrowed from a Medicaid resident who only receives an allowance of \$75. a month! A report that reads SUBSTANTIATED in my public file, because YOU refused to even consider ANY of this overwhelming indisputable evidence in favor of standing behind two of YOUR staff members -- one who had taken no notes and had very little recollection of the investigation (understandable considering we are talking about a complaint filed in February, 1994) and a second who SUBSTANTIATED another item in this same complaint even though she was unable to contact the family members to confirm the complaint (and , in 1995 amended); BUT, using her better (?) judgement, elected to SUBSTANTIATE it anyway and took 6 months to complete her investigation! (a Violation of SB 549) There were also other inconsistencies in this investigator's report, which you refused to allow me to present at this conference.

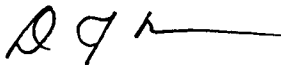


In the best interest of receiving a fair and unbiased determination, MARY FASSELL should remove herself from involvement in any manner regarding my home due to a previous highly emotional conflict resulting in a severe reprimand from your predecessor, the former manager of the Adult Care Home Program and an apology to me. Jean, you may want to consider removing yourself from this situation as well, although I like you personally, I feel some prejudice may be lingering as a result of my involvement with the Portland/Multnomah Commission on Aging, which advises you in your current position.

Please advise.

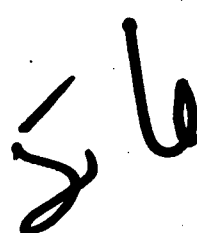
Respectfully,

ROSEWOOD CARE, INC.



Dianna J. Roberts
Owner/Manager

cc: Jim McConnell, Director
Carol Rex, Deputy Director
Carole Isaman, Licensing Agent
Annette Potts, Protective Services
Catherine Gaetjens, County Counsel
Cindy Peetz-Yochim, R.N.
Commissioner Stein
Commissioner Hansen
Commissioner Collier
Commissioner Kelly
Commissioner Saltzman
Cecilia Littleton
Thelma Skelton, PMCOA
Estill Deitz, PMCOA
Grover Simmons, Lobbyists
Cindy Hannum
Senator John Lim
Roger M. Auerbach, Administrator SDSD - State of Oregon
PUBLIC FILE



AFFIDAVIT

I, Pauline St. Germaine, have resided at Rosewood Adult Foster Home, 19390 N.E. Multnomah Ct., Portland, Oregon since April, 1993. Last Tuesday, June 13th a man and a woman visited with Flonnie McClane. They were sitting in the living room and the lady ask Flonnie, "Do you want to stay, or do you want to move?" Flonnie answered, "I want to stay." The lady then ask Flonnie to speak privately with her in her bedroom with John. Within 3-4 minutes they were taking her out the front door.

I offer this affidavit of my own volition, and not due to duress of any nature. I swear the above to be a true statement.

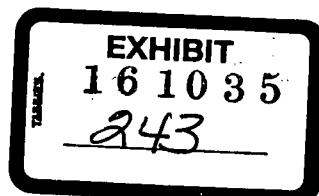
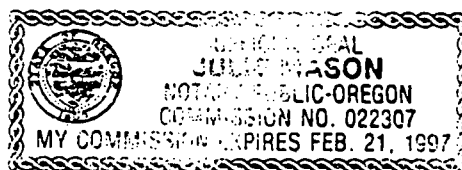
Pauline St. Germaine

STATE OF Oregon)
COUNTY OF Multnomah) SSS

SUBSCRIBED AND SWORN BEFORE ME THIS 20 DAY OF June, 1995

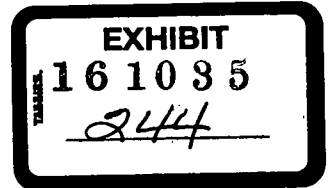
2-21-97
My Commission Expires

Julie Mason
(Notary Public)



106

Dianna Roberts
Annetta Polts



1-503-669-5325

To whom it may concern,

I was in Dianna's home on
July 8, 1995. Lucille was swearing
and very angry because she
had returned.

Yours Truly
Georgia Purcell

This is from my Mom. She
visited frequently during the Summer.
And is now in Ariz. for the
Winter
D. Roberts

Georgia Purcell 5-6-96

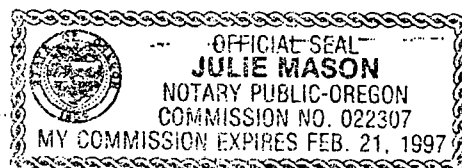
STATE OF OREGON

Multnomah County

Signed by: Georgia V. Hege Purcell

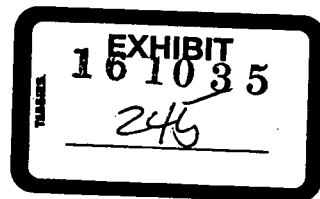
Dated: 5-6-96

Notary: Julie Mason



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STATEMENT



I, Cheryl M. Banks am writing this affidavit on Dianna Roberts' behalf.

I work here at Rosewood Adult Foster Home four (4) days a week. I like working here because Dianna Roberts truly cares for the four (4) ladies who are residents here. She, Dianna, is very good to these ladies. She makes sure that they have everything they need. These ladies she takes care of are fed three (3) meals a day. She has fruit for snacks in between meals and also cake, ice cream and cookies available at all times.

She does not serve only chicken. She gives them something different every night, i.e. roast, chicken, hamburger, turkey and tuna. She has a variety of foods to serve them. The ladies get the nutrients they need, i.e., milk, fruit, vegetables, carbohydrates, protein, all the requirements of daily four intake.

I know that these ladies are not abused in any way. Dianna is very picky about how these ladies are treated. She does everything from the kindness of her heart to the caring way she treats her ladies that live here. She cares very much and I feel she loves these ladies very much and would not in any way jeopardize one of them.

Whoever is complaining about her is very wrong, because Dianna takes very good care of her ladies here. I love working here because I feel a very strong sense of caring and happiness. Dianna is very, very good to these ladies. They are very happy indeed.

I offer this statement of my own volition.

I SWEAR THE ABOVE TO BE A TRUE AND SWORN STATEMENT.

SUBSCRIBED AND SWORN BEFORE ME THIS 11 DAY OF Oct, 1995.

Cheryl M. Banks
Cheryl M. Banks

State of Oregon)
County of Multnomah) SSS

2-21-97
My Commission Expires

Julie Mason
(Notary Public)



300

September 7, 1995

Mary Fassell, Attorney
Complaint Specialists
Aging Services Division
421 S.W. 5th, Rm 405
Portland, Oregon 97204-2221

Dear Mary,

Enclosed please the Incident Report of April. 13, 1995, which you were searching for when you came to my home on September 5th with Melinda Maxwell and your portable photo copy machine. Had I not had an empty bedroom due to Jean DeMaster's suspension of admissions letter of August 18, 1995, I wonder where you would have set up your portable copying operation. (The dining room table or the living room floor would have been the only other available space, as my home is small -- no basement, attic or garage.)

I am aware of the allegation by my former caregiver, who quit because Flonnie McClane moved back to my home, that Orla McGinnis fell and that I did not call 911 until the next day. This allegation is ludicrous. This caregiver was not on duty the day before. She came in at 8:00 a.m. on April 13th the morning Orla had fallen.

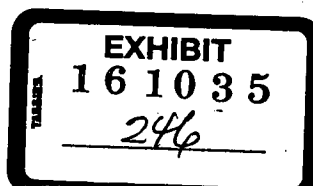
I had assisted ^{ORLA} back into bed at 2:30 a.m. She has always refused a hospital bed with full protective side rails even though the visiting nurse recommended one. Her daughter and myself respected her rights and her daughter purchased 1/2 side rails so she could continue using the bedside commode. I gave Orla her usual morning pills at 7:00 a.m. with her bread and water. She never expressed any degree of pain! Orla's routine was to skip breakfast and we awakened her at 11:00 a.m. every morning for the last 2 1/2 years.

As I left that morning, I indicated that Orla had fallen during the night and that she may not feel like getting up at her usual time. This was also not unusual, if she was not feeling well.

When I returned around 3:30 p.m. (approx.), I phoned 911 for them to evaluate whether or not she should be transported for examination. I was shocked to learn that exrays determined she had a slight right hip fracture, because she has not expressed pain. It was debated at the hospital whether this was an old fracture or a new one.

Second enclosure is a photo copy of an affidavit signed by Orla around 7:00 p.m. the previous evening, August 12th. The notary can verify Orla was fine and eating her bedtime snack when she was here.

This allegation of my not calling 911 until the following day is absurd!



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Mary Fassell
Page 2
September 7, 1995

I have never in my eleven years of operation hesitated to call 911 for assistance as the station is only 3 blocks away (#74) and all those firemen know my home very well! They especially know Flonnie McClane from her occasional falls and claims of chest pain and shortness of breath over the past 5 years, but mainly for her behavior pattern. They have transported her numerous times to Mt Hood Medical Center and several other times elected not to transport.

Perhaps I should have called 911 at 2:30 a.m., and had Orla been expressing the slightest degree of pain, I certainly would have.

Respectfully,

ROSEWOOD FOSTER CARE



Dianna J. Roberts
Owner/Manager

cc: Emily Simon
Jean DeMaster

Enclosures: Incident Report
Affidavit

P.S. I have always remembered the Peggy Lawrence incident in 1985 and never placed my residents and ^{my} livelihood at risk by not phoning 911 and allowing the paramedics to make the decision to transport or not.

Use of a notebook for Residents is acceptable.

RESIDENT'S INCIDENT/PROGRESS NOTES

Resident's Name

Admission Date

Incident

Instructions:

- This form or a notebook is to be used to log changes in medications, behavior, or condition of the resident.
- In addition, all incidents, accidents, and special events are to be recorded on this form or notebook.
- Nurses, therapists, and other service providers should also use the progress notes to record information regarding their assessments and services.
- ALL NOTES MUST BE SIGNED AND DATED.
- Providers are encouraged to send progress notes with the patient to physician's appointments and have the physician respond with progress notes.

(Note: An updated admissions agreement and/or care plan must be completed and signed by all parties when significant changes in the resident's condition result in changes in the monthly rate and/or care needs.)

Date/Time	Notes
4-13-95 2:30 AM	Orla fell while up using her bedside commode. I assisted her back to bed.
4:30 PM	Orla not feeling well and refused lunch. I called 911 to have her evaluated. They transported her to Providence Hospital for further tests after obtaining permission from ER Room. DR.

EXHIBIT
161035
248

☐ MEETING ☐ MEMO ☐ OTHERS

A: Admin CONF.

DIANA Roberts

B: 6-22-95

2-461-050-110

☐ MEETING ☐ MEMO ☐ OTHERS

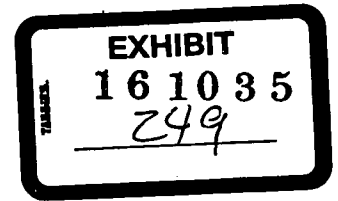
A: CONF. Glenn

IN FORMAL

B: DIANA Roberts

6-24-95

2-461-050-110



The following is a complete file of complaints on record with the Oregon State Bar against
Mary M. Fassell. Mr. Chris Mullman, Investigator, informed me on May 16, 1996 that
this file has been forwarded to the **State Board of Professional Conduct** for further
investigation.

Dianna J. Roberts
Dianna J. Roberts

5/21/96



5200 S.W. Meadows Road, P.O. Box 1689, Lake Oswego, Oregon 97035-0889
(503) 620-0222 or WATS 1-800-452-8260, FAX: (503) 684-1366

March 12, 1996

Linda Shelton
19715 NE Hassalo Court
Portland, OR 97230

Dear Ms. Shelton:

Please find enclosed the most recent correspondence I have received from Mary M. Fassell.

It appears that my initial investigation of this matter is concluded. I will, in the near future, analyze this file to determine whether further investigation by the Bar is warranted. I will advise both you and Ms. Fassell of my decision.

Very truly yours,

Chris L. Mullmann
Assistant Disciplinary Counsel
Extension 392

CLM:cjk
Enclosure

cc: Mary Fassell, Esq.



MULTNOMAH COUNTY OREGON

RECEIVED

MAR 11 1996

DISCIPLINARY

AGING SERVICES DIVISION (503) 248-3646
ADULT CARE HOME PROGRAM (503) 248-3000
FAX: (503) 306-5722
421 SW 5TH, ROOM 405
PORTLAND, OR 97204-2221

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN • CHAIR OF THE BOARD
DAN SALTZMAN • DISTRICT 1 COMMISSIONER
GARY HANSEN • DISTRICT 2 COMMISSIONER
TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

March 7, 1996

Chris L. Mullmann
Oregon State Bar
P.O. Box 1689
Lake Oswego, Oregon 97035-0889

Dear Mr. Mullmann:

In response to your letter of March 5, 1996, regarding a second letter received by you by Linda Shelton, I do not knowingly encourage anyone to file a false complaint.

Sincerely,

Mary M. Fassell

Mary M. Fassell, Sanctions Specialist
Multnomah County Adult Care Home Program



5200 S.W. Meadows Road, P.O. Box 1689, Lake Oswego, Oregon 97035-0889
(503) 620-0222 or WATS 1-800-452-8260, FAX: (503) 684-1366

March 5, 1996

Mary Fassell, Esq.
#405
421 SW Fifth court
Portland, OR 97204

Dear Ms. Fassell:

Enclosed is a further letter we received from Linda Shelton in connection with her complaint against you.

Please review the enclosure and provide us with any additional information you wish to have us evaluate no later than March 19, 1996.

Thank you for your cooperation.

Very truly yours,

Chris L. Mullmann
Assistant Disciplinary Counsel
Extension 392

CLM:cw

Enclosure

cc: Linda Shelton
19715 NE Hassalo Ct.
Portland, OR 97230

March 2, 1996

Chris L. Mullmann
Assistant Disciplinary Counsel
OREGON STATE BAR
5200 S.W. Meadows Rd.
P.O. Box 1689
Lake Oswego, OR 97035-0889

Dear Mr./Mrs. Mullmann:

RE: MARY FASSELL - LETTER - FEBRUARY 21, 1996

I maintain that Mary Fassell is one of the people involved in the intense harassment Foster Care Providers have suffered, particularly in the last couple of years.

By her own admission, Mary encourages people to file complaints. As far as the CSD complaint, I maintain that Aging Services Division knew my daughter was out of her room. Mary, also knew this. Therefore, if she encouraged a complaint to be made to CSD, it was for the purpose of building a case against me. Encouraging someone else to lie is just as unethical, as if she did it herself.

The "anonymous" complaints were phoned in on July 21, 1995. The same date as Mary's letter to me. The complaints were pure harassment, as Multnomah County Aging Services (Mary), received copies of my veterinarian records & registration papers and knew the dog in question was under six (6) months of age and not licensable. Therefore, I was not in violation of any law. And yet, 6-7 complaints regarding the same subject continued to be made.

Again, I will say, it is not Mary's place to encourage people to make false complaints to harass any person, for the purpose of building a nice thick file to use to put someone out of business. Public complaints in the files have grown from roughly two (2) paragraphs to 11-12 pages! Mary, herself, admitted training ASD staff to write reports like this! Hiding under the guise of a "Sanctions Specialist" Mary is using her skills as an attorney in a way that destroys peoples lives.

As far as allegation #2, Mary states she has no reason to disbelieve a staff member's report. This is a lie. It was common knowledge in that office that worker, Doris Mitchell, had been accused of exaggerating & filing false reports. She had personality conflicts with other caregivers, as well as with myself. I was given a PROMISE from Jean DeMaster, AFC Program Manager, that Doris Mitchell would not be sent to my home anymore, because of this. Mary was aware of this PROMISE -- Doris Mitchell was sent out again, anyway!!!

Chris L. Mullmann - Oregon State Bar

March 2, 1996

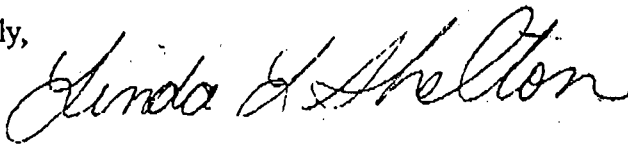
Page 2

Yes, Mary had every reason to disbelieve this staff member! But she deliberately chose not to, because it was more important to try to put me out of business. There appears to be a conspiracy within the Aging Services Division to close Adult Foster Care Homes; where the owners are outspoken, intelligent and not afraid to defend themselves, like myself. I am all of the above, therefore, she must consider me a threat to her position.

I expect to see fairness and justice within the Aging Services Division. It is only right! I have heard similar stories from other care providers. Many are absolutely terrified to speak up for themselves for fear of reprisals, i.e., losing their homes and businesses.

There is, currently, an investigation going on regarding the fact that the County is violating caregivers' civil rights. Mary Fassell, as an attorney, certainly knows what she is doing. There is no excuse for the suffering resulting from the abuse of her power and legal knowledge.

Sincerely,

A handwritten signature in cursive script that reads "Linda H. Shelton". The signature is written in dark ink and is positioned below the word "Sincerely,".

Linda Shelton
19715 N.E. Hassalo Ct.
Portland, OR 97230
Ph: 492-3667



5200 S.W. Meadows Road, P.O. Box 1689, Lake Oswego, Oregon 97035-0889
(503) 620-0222 or WATS 1-800-452-8260, FAX: (503) 684-1366

February 21, 1996

Linda Shelton
19715 NE Hassalo Ct.
Portland, OR 97230

Dear Ms. Shelton:

In response to our letter of February 6, 1996, attorney Mary M. Fassell has sent us the enclosed materials in answer to your complaint.

Please review the enclosure and provide us with any additional information you wish to have us evaluate no later than March 6, 1996. Shortly thereafter we will determine whether this matter warrants further investigation by the Bar. You will be notified of our decision.

Very truly yours,

Chris L. Mullmann
Assistant Disciplinary Counsel
Extension 392

CLM:cw

Enclosure

cc: Mary M. Fassell, Esq.



MULTNOMAH COUNTY OREGON

AGING SERVICES DIVISION (503) 248-3646
ADULT CARE HOME PROGRAM (503) 248-3000
FAX: (503) 306-5722
421 SW 5TH, ROOM 405
PORTLAND, OR 97204-2221

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN • CHAIR OF THE BOARD
DAN SALTZMAN • DISTRICT 1 COMMISSIONER
GARY HANSEN • DISTRICT 2 COMMISSIONER
TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

February 21, 1996

Chris L. Mullmann
Oregon State Bar
P.O. Box 1689
Lake Oswego, Oregon 97035-0889

Dear Mr. Mullmann:

I am responding to your letter of February 6, 1996, requesting my response to the allegations made to you by Linda Shelton.

I work for Multnomah County's Adult Care Home Program as the Sanctions Specialist. I am not working as an attorney in my position and I have made this very clear that I am not working as an attorney. The agency licenses and regulates foster homes for elderly and disabled adults in Multnomah County.

As part of my job I decide and implement sanctions against licensed operators of adult care homes who violate the rules and standards for the operators. Linda Shelton has a license to operate an adult care home. I placed conditions on her license which she must meet in order to keep her license. The conditions are:

1. Her home must be kept free of urine odor.
2. She must keep her home up to the Adult Care Home Program's standards of cleanliness.
3. She must hire a person to help her clean house for at least 3 hours a day for 3 days a week. This person must be at least 18 years old and may not be a person living in her home.

My responses to Linda's allegations are as follows:

1. Allegation: I "was behind" complaints filed with the Adult Care Home Program against Linda's adult care home.

Response: As part of my job I have told many people the procedure for filing complaints and I encourage those who may have complaints to file them. I did not instigate any complaints against Linda's home. Linda seems to think I filed a complaint about her disabled daughter with CSD. I did not do this but I cannot tell her who did because the names of complainants are confidential according to state law. However, if I had concerns about a child in her home, I would have had to report it because I am mandated to report possible abuse by state law.

2. Allegation: I placed a condition on Linda's license, that she could not admit any new residents into her home until further notice from the Adult Care Home Program, on the basis of a lie that Linda had not hired the caregiver that she was required to do.

Response: My action was based on the information given to me by our staff who visited her home and who reported that Linda had not hired a caregiver. I had no reason to disbelieve our staff's reports.

I trust that this response is adequate for your needs. If you have any further questions feel free to call me at 248-3000, extension 2624.

Sincerely,

Mary M. Fassell

Mary M. Fassell, Sanctions Specialist
Multnomah County Adult Care Home Program



5200 S.W. Meadows Road, P.O. Box 1689, Lake Oswego, Oregon 97035-0889
(503) 620-0222 or WATS 1-800-452-8260, FAX: (503) 684-1366

February 6, 1996

Mary M. Fassell, Esq.
#405
421 SW Fifth Court
Portland, OR 97204

Dear Ms. Fassell:

The Oregon State Bar has received the enclosed correspondence from Linda Shelton, who has expressed concern about your conduct.

It is my responsibility to investigate these allegations to determine whether your conduct complies with the provisions of ORS Chapter 9 and the Code of Professional Responsibility. In order to permit me to make a fair and informed analysis of these allegations, I request your response to them on or before February 27, 1996, as required by BR 2.5(b)(1).

When I receive your response, I will send a copy of it to the complainant. I will, if appropriate, request that the complainant comment upon your response. All materials submitted in the course of this investigation are considered public records, and both parties will receive copies. If, after I receive all of the requested documentation, I feel that further consideration of the allegations is warranted, the matter will be submitted either to your Local Professional Responsibility Committee for investigation or to the State Professional Responsibility Board, with notice to you and the complainant. The Board ultimately will determine whether or how to proceed further. You and the complainant will be notified of the Board's decision.

I am confident that I will receive your full cooperation in this investigation. You should be aware, however, that failure to respond to these allegations constitutes a violation of DR 1-103(C). Should I not receive your response on or before the date specified above, I will refer this matter to your Local Professional Responsibility Committee for formal investigation. I am able to grant an extension of time to respond for good cause if requested in writing before the deadline.

Mary M. Fassell, Esq.
Page - 2

Thank you in advance for your cooperation. I look forward to a fair and expeditious review of this matter.

Very truly yours,

Chris L. Mullmann
Assistant Disciplinary Counsel
Extension 392

CLM:cw

Enclosure

cc: Linda Shelton
19715 NE Hassalo Ct.
Portland, OR 97230

*1-3/94

Linda is an ambitious and energetic 35 year old mother of five children including a 7 year old with Prader-Willi Syndrome. She is also a grandmother of two. Linda is a certified Nursing Assistant with experience caring for Elderly in Nursing Homes since 1978, and owning her own Adult Foster Homes since 1985, for a combined total of 17 years.

Linda is also a Parrot Behaviorist, a member of the Nationwide Parrot Place Organization, and owner of her own Bird Related Business, "Linda's Parrot Place."



Linda and her son

January 30, 1996

RECEIVED

To Oregon State Bar

FEB 01 1996

RE: Formal Complaint against Mary Fassel

DISCIPLINARY COUNSEL

It has been my understanding that although Mary Fassel is an attorney, she is not practicing her legal knowledge while working for Aging Services Division. I believe she is using her legal knowledge in an unethical manner.

The current rules + regulations used to govern care providers were largely influenced by Mary Fassel. There are so many loopholes, that care providers don't stand a chance if someone doesn't like you at the county level. They will take your license. It appears the main targets are politically active, intelligent caregivers, in short caregivers who "rock the boat."

Agency ~~===~~ workers "build cases" against certain caregivers under the direction of Mary Fassel. These cases are sometimes based upon deliberate lies (as I will demonstrate in my own personal case). I also believe many of our federal rights have been taken away.

I have been a victim of unfair treatment, and deliberate lies by Mary Fassel. This has caused me a great deal of stress, loss of reputation, and severe business repercussions.

Please reference exhibit "A", a letter written to Mary Fassel by myself on Oct. 12, 1995.

On July 21, 1995 I was given a conditional license and letter, both signed by Mary Fassel. On July 21, anonymous complaints were phoned in to Animal Control, and CSD. These complaints were false, and I believe Mary Fassel was behind these complaints, trying to "build a case" against me, knowing full well that all complaints

including unsubstantiated would remain part of my permanent file, and could be used against me. Mary made a statement that she had much "Documentation" against my home, and tried to use it against me.

In the instance with CSD, the complaint was that I locked my daughter in her room day + night. See exhibit "B", which is Doctors Permission for a door lock. I had to Battle the County for the right to have a door lock to keep my severely retarded 8 yr old safe. (The County sent me a letter demanding I remove door lock now! I refused, being concerned about my daughter. The County had knowledge of my daughter being out of her room she attends a special school daily, County workers found her outside in their car going through their briefcases while they were inside inspecting my home! On another occasion, another county worker became upset as my handicapped daughter was running around + dropped part of a sandwich (I was written up for having food on the floor!) 2 instances where the County knew my Daughter was out of her room, and yet they still tried to do this to me! CSD sent out a Prader-Willi expert, and dismissed my case as a false complaint.

In the instance with Animal Control, Aging Services called complaints on me at least 5 times, even though I sent information + letters that I was not violating any laws. See exhibit "C" I was continually harassed anyway.

I was given the conditional license (the original was dated July 21, but updated Aug 8). One of the stipulations was to have a hired housekeeper (which I already did) (exhibit "D").

Doris Mitchell was sent to my home (after a verbal promise from Jean Demaster that she would never be sent to my home again - a promise that was witnessed by my good friend Diane Whitehead).

I was not home at the time, my housekeeper answered the door. Doris harassed my help + my children.

Next thing I knew, Mary Fassel froze my license, barring new admissions, saying that I myself had admitted that I had not hired a housekeeper! This was an outright lie by Mary Fassel, and the freeze on my business caused me severe financial problems. I almost lost my business due to her action, which was her intention. On several occasions County workers were present in my home while my hired help were working!

I find it interesting to note that my year long harassment by Mary Fassel and Aging Services Division finally stopped with my October letter to Mary.

I have heard complaints from other care providers regarding similar mistreatment. Many of these care providers are terrified to speak up, for fear of further harassment.

Mary hides behind a blanket statement of acting in "Good Faith" for protecting the elderly. However, harassing caregivers and documenting lies to drive people out of

Business is NOT benefiting the elderly.
It's only benefiting Mary to drive out
people who have the guts to stand up against
her "legal brilliance".

I would like to see something done
about this appalling situation, not just
for myself but all caregivers.

Sincerely,

Linda Shelton

19715 NE HASSALO CT.

Portland, OR 97230

492-3667

OCTOBER 12, 1995
FAXED

MARY FASSEL

YOU ARE AN ATTORNEY, I HAVE HAD THAT VERIFIED. AS SUCH YOU ARE TO UPHOLD CERTAIN STANDARDS, I HAVE IN MY POSSESSION A DOCUMENT SIGNED BY YOU WITH THE FALSE STATEMENT: "YOU ADMITTED NO HOUSEKEEPER WAS HIRED 3 HOURS A DAY, 3 DAYS A WEEK" I NOT ONLY NEVER MADE SUCH A STATEMENT, I HAVE TIME RECORDS, PAYROLL RECORDS, AND VIDEOTAPE (AUTO-DATED) OF MY HELPERS. ON SEPT. 1, 1995 I WAS NOT HOME, MY HIRED HELP WAS HERE WHEN DORIS MITCHELL CAME TO MY HOME TO INSPECT. THE NEXT INSPECTION ALSO OCCURED WHEN I WAS NOT HOME, BUT WHILE MY HOUSEKEEPER WAS HERE THERE YOUR STATEMENT IS A DELIBERATE LIE, A FALSEHOOD, A SLANDER. WHO ARE YOU ACCOUNTABLE TO FOR YOUR ACTIONS, MARY? THE STATE BAR? PERHAPS? IS IT ETHICAL FOR ATTORNEYS TO LIE? AT THIS POINT, BECOMING HOMELESS RIGHT BEFORE CHRISTMAS MIGHT MAKE A STORY WORTHY OF MEDIA ATTENTION. I HAVE DOCUMENTATION OF SEVERE FINANCIAL LOSSES AS A DIRECT RESULT OF THE SLANDER AGAINST MY BUSINESS. MY BOOK-KEEPER HAS CAREFULLY PREPARED THIS

2004 10 12 10:00
000000

Pg 2

FOR ME. I HAVE IN MY POSSESSION VIDEOTAPE FOR THE PAST YEAR OF THE FOLLOWING:
(1) DAILY FOOTAGE OF EACH MEAL MY RESIDENTS CONSUMED, INCLUDING CLOSE UP SHOTS OF THE MEALS, SHOTS OF MY RESIDENTS ACTUALLY CONSUMING THE MEALS. EACH MEAL IS

DATE & TIME STAMPED WITH VIDEO TAPES

(2) A DAILY WALK THROUGH OF MY HOME AT 11:00 AM. THE CAMERA SHOWS CONDITIONS OF EACH ROOM AND EACH DAY IS DATE & TIME STAMPED. SUCH AS 10/12/95

(3) A DAILY SHOT OF MY DOG RUN AT 5:00 PM. DATE AND TIME STAMPED. SUCH AS 10/12/95

I ALSO HAVE IN MY POSSESSION, FOR THE LAST 6 MONTHS A STATEMENT BY EACH VISITOR TO MY HOME THE CONDITIONS THEY FOUND MY HOME TO BE IN AND THE CONDITIONS OF MY RESIDENTS. (THESE WERE ALL NON-COUNTY WORKERS. SOME WERE HEALTH CARE PROFESSIONALS, ALL DOCUMENTED WHETHER THEY CALLED AHEAD OR JUST SHOWED UP. I HAVE A SUBSTANTIAL NUMBER OF PEOPLE WHO DID NOT CALL AHEAD, WHO FOUND MY HOME TO BE SATISFACTORY. SUCH AS 10/12/95

I ALSO HAVE IN MY POSSESSION THE DOCUMENT WHERE THE COUNTY REQUESTS

Pg 3

ME TO HAVE ONLY 4 RESIDENTS BECAUSE
I HAVE 5 CHILDREN. I ALSO HAVE IN
MY POSSESSION THE LICENSE FOR FIVE
RESIDENTS ISSUED TO ME 6 MONTHS
BEFORE THAT DATE (WITH THE COUNTY

KNOWING I HAD 5 CHILDREN)

I ALSO HAVE NUMEROUS OTHER "OFFICIAL"
LETTERS FROM YOUR AGENCY MAKING SUCH
STATEMENTS AS "LINDA, THE BASIC PROBLEM
SEEMS TO BE THAT YOU HAVE TOO MUCH TO DO"
OR "LINDA, WE DON'T SEE HOW ANYONE COULD
COPE WITH AS MUCH ACTIVITY AS YOU DO"

IT IS VERY CLEAR THAT THERE IS PRE-
JUDICE AGAINST THE NUMBER OF CHILDREN
I HAVE; THE LIVELY, ACTIVE HOUSEHOLD I
DO HAVE AS A RESULT.

YOU HAVE TRIED TO BUILD A CASE AGAINST
ME OVER HOUSEKEEPING WITHOUT CLEARLY
DEMONSTRATING THAT THE HEALTH, SAFETY
AND WELFARE OF MY RESIDENTS WAS ACTUALLY
BEING VIOLATED.

A CORNERSTONE OF MY RELIGIOUS FAITH
IS TO ~~BE~~ HAVE A LARGE FAMILY, KIDS, NOISE
AND SOME AMOUNT OF "NON DANGEROUS"

"CLUTTER" GO HAND IN HAND. IF I HAD
NO CHILDREN OR ONLY 1 OR 2, THERE WOULD BE A
CHANCE I WOULD NOT HAVE BEEN PERSECUTED

Pg 4

TO SUCH A DEGREE I CAN CLEARLY
SEE PREJUDICE BECAUSE OF THE NUMBER
OF CHILDREN I HAVE, AND MY RELIGIOUS
BELIEFS.

YOU HAVE MUCH "DOCUMENTATION"
SOME OF WHICH IS EXAGGERATED OR FALSE.
MY VIDEO CAMERA DOES NOT LIE, HOWEVER
AND MY DAILY MONITORING IS MORE
EXTENSIVE THAN YOUR MONITORING.

I HAVE ATTORNEYS READY TO TAKE MY
CASE, AND I AM WILLING TO GO TO COURT.

I PREFER TO REPRESENT MYSELF
AND SEE IF WE CAN COME TO A REASONABLE
SOLUTION, AND TO SEE IF YOUR OFFICE CAN
PROVIDE HONEST, RESPONSIBLE, AND FAIR
MONITORING OF MY HOME OR ARE YOU
GOING TO CONTINUE THE PRESENT TACTICS
OF HARRASSMENT? AND, MARY, AS TO THE
LIE YOU DELIBERATELY DOCUMENTED ON SEPT.
14, 1995, LET ME QUOTE AUTHOR PETER McWilliams

"THERE ARE THREE REASONS WHY LAWYERS ARE REPLACING
RATS AS LABORATORY RESEARCH ANIMALS. ONE IS THAT
THEY'RE PLENTIFUL, ANOTHER IS THAT LAB ASSISTANTS
DON'T GET ATTACHED TO THEM, AND THE THIRD IS
THAT THERE ARE SOME THINGS RATS JUST WON'T DO".
I WILL FIGHT FOR THE RIGHT TO PROVIDE FOR
MY CHILDREN! LINDA SHELTON

EAST PORTLAND PEDIATRIC CLINIC, P.C.

10000 S.E. Main Street

Suite 106

Portland, Oregon 97218

255-3544

ROBERT E. STANTON, M.D.

J. STEVEN DAVIS, M.D.

DAVID A. SKAU, M.D.

JULIE K. O'TOOLE, M.D.

Physicians

Practice Limited to Infants,
Children and Adolescents

To Jean Demaster

5-4-95

Multnomah County Adult Housing
Adult Care

FAX 248 3656

Re: Linda Shelton, provider

I am the pediatrician for Jessica
Shelton B.D. 10-30-87. Jessica
has Prader-Willi Syndrome with
marked mental retardation and
impulsive behaviour. This child
requires a lock on her bed-
room door and an audible
monitor in her room at
night. This is the only safe
way to allow her to be
unrestrained.

Robert E. Stanton
MD



OREGON
HEALTH SCIENCES UNIVERSITY

CHILD DEVELOPMENT & REHABILITATION CENTER

P.O. Box 574, Portland, Oregon 97207-0574

*Services for Children with Special Health Needs
University Affiliated Program*

MAY 3, 1995

ADULT HOUSING
AGEING SERVICES DIVISION
ATTN: JEAN DEMASTER
421 SW FIFTH
PORTLAND, OR 97205

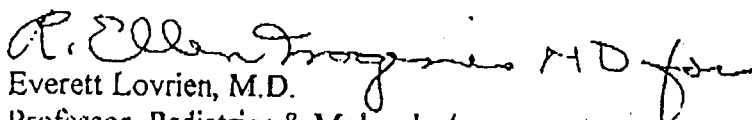
RE:Linda Shelton

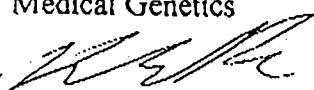
Dear Ms. DeMaster,

Ms. Shelton has asked that we write this letter of explanation re: her daughter, Jessica Shelton, & her special needs. Jessica has been diagnosed with Prader-Willi syndrome, a condition which includes mental retardation, severe behavior problems, uncontrollable food seeking behavior which often causes life threatening obesity, & other features. For her own safety, Jessica's room is locked at night. Many families who have children with this condition find this to be safer than the alternative of their child wandering in & outside the home at night. Locked kitchens and/or refrigerators are also often required.

We've enclosed some information about this condition & urge you to call us with any questions at 494-8307. We believe it would be a great disservice to this family & this child to require a change in this arrangement.

Sincerely,


Everett Lovrien, M.D.
Professor, Pediatrics & Molecular/
Medical Genetics


Karen Kovak, M.S.
Genetic Counselor

February 13, 1995

Carol Isaman,

In response to your most recent letter:

1. I don't know who's poking their nose into my business (where it doesn't belong) BUT I am NOT in any violation regarding the number of Dogs in my home. The law restricting to 3 dogs only applies to dogs over 6 months old. This means I can continue buying and selling an occasional puppy from my home without a kennel license. I only have 3 adult dogs at my residence. Therefore I have not violated any laws.

2. Restricting me to 4 residents is a slap in the face and an aggressive move by the county to forcefully close down my home. The excuse that I "care" for five children shows ignorance of how a large family operates. My 16 year old is getting her GED, becoming emancipated, going to college next fall, and is for all practical purposes an adult. I married and had a family at 17, my mother at 16, and we've always been responsible and self supporting. None of us were lazy teen welfare recipients. And none of us regretted the decision to start our families early.

My 16 year old works for me, preparing most of the evening meals (she's an excellent cook and loves doing it) and many other tasks related to Adult Foster Care. So does my 15 yr. old.

**

Fax Report

**

Date : Mar 23, 95 12:19

Location : 5032483656

Pages : 02

Result : OK

~~unusually, much more than a general average~~
— Once again, I need to explain, I am not breaking any county laws regarding my dogs. There are 4 in my household. my Basset is under 6 months, is not Licensable till then, and does not count yet. TOBY is not my DOG, But my Daughters, and will go with her when she moves out again. my 2 shepards are ward dogs, I will get a Kennel License if I plan to have any more dogs over 6 months of age.

ADULT HOUSING PROGRAM
TO ANNA HELM, SANITATION

MARCH 24, 1995

I JUST HAD THE MULT. COUNTY DOG
PEOPLE OUT HERE, SO I'M GOING TO EXPLAIN
ONE MORE TIME.

SHEBA, PRINCE + CLEO ARE MY DOGS. CLEO
IS UNDER 6 MO. OLD SO ONLY HAS A TEMPORARY
LICENSE BECAUSE SHE'S TOO YOUNG TO BE
LICENSED.

TOBY IS MY DAUGHTERS DOG, AND IS LIC-
ENSED AT HER FIANCE'S ADDRESS WHERE
SHE LIVED WITH HIM + HIS DAD FOR A TIME.
SHE IS BACK HOME WITH ME TEMPORARILY
(MY DAUGHTER)

TOBY IS WELCOME HERE ANYTIME, AND
IF CHRISTINA MOVES NEARBY AND CONTINUES
TO WORK FOR ME IN THE DAYTIME, TOBY WILL
BE COMING WITH HER, HE FOLLOWS HER
EVERYWHERE.

I AM NOT IN ANY VIOLATION OF LAW
ACCORDING TO THEM. I'VE ~~ALREADY~~ ALREADY
DISCUSSED THIS.

IF I CHOOSE TO, I MAY APPLY FOR A
KENNEL LICENSE AND PURCHASE MORE
DOGS. BUT I'M NOT GOING TO DO IT AT THE
PRESENT TIME, I'LL CONSIDER IT WHEN
CLEO IS OLD ENOUGH TO BREED.

I HOPE THIS CLEARS UP THIS MATTER
FOR YOU.

SINCERELY,
LINDA SHELTON



MULTNOMAH COUNTY OREGON

AGING SERVICES DIVISION (503) 248-3646
ADULT CARE HOME PROGRAM (503) 248-3000
421 SW 5TH, ROOM 405
PORTLAND, OR 97204-2221

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN • CHAIR OF THE BOARD
DAN SALTZMAN • DISTRICT 1 COMMISSIONER
GARY HANSEN • DISTRICT 2 COMMISSIONER
TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

POST

Exhibit
"D"

Ms. Linda Shelton

19715 N.E. Hassalo Court
Portland, Oregon 97230

CONDITIONS ON LICENSE

August 8, 1995

1. Operator must keep home free of urine smell.
2. Operator must keep our home up to minimum standards of cleanliness every day.
3. Operator shall have a housekeeper who is a non-household member and is at least 18 years old, at least 3 days a week for at least 3 hours a day. This person shall also be approved to work as a caregiver in the home.

Mary M. Fassell

Mary M. Fassell, Sanctions Specialist
Multnomah County Adult Care Home Program

August 3, 1990

To whom this may concern:

During this past year Linda Shelton cared for my mother Hazel N. Smith until her death. I am very impressed with the care and devotion Linda shows for her patients. The environment was always clean and cheerful. I feel that my mother received the very best care possible and I am happy to recommend the Dove Foster Care Home to anyone wishing quality care for their loved one.

Sincerely,

Kari Elisabeth Cameron

Kari Elisabeth Cameron
3665 Monroe apt. 5
Milwaukie, Oregon 97222
786-0912

6014 S.E. Franklin
Portland, OR 97206
August 12, 1991

Dept. of Senior Services
421 SW Fifth
Portland OR 97205

Re: Dove Foster Care

For the records;

I would appreciate this letter of commendation being placed in your records for the Dove Foster Care facility operated by Linda Shelton.

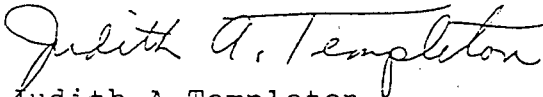
My mother, Mabel Oliver, was in her home for the last five years. Mom died July 31, 1991.

I could not have asked for more loving care. It was beyond what I found myself able to do.

Linda Shelton and then Ursula Jordan care for these incapacitated people with a patience and love that is seldom seen anymore.

I cannot recommend them too highly.

Sincerely,


Judith A Templeton

cc: Dove Foster Care Facility

Portland, Oregon
April 2, 1991

TO WHOM IT MAY CONCERN:

RE: LINDA SHELTON
8333 S.E. Rhone Str.
Portland, Oregon 97266

In January, we had the opportunity of meeting Linda Shelton. This was due to the fact that our sister needed care during the termination of her illness with cancer.

Linda is very well qualified to handle terminally ill patients. She is very kind, considerate, understanding, patient and loving to all her patients.

There is a 24-hour supervision, and during the most trying of times, she is always pleasant, helpful and encouraging. The ladies always are dressed and showered before 10:00 a.m. The rooms are clean and there is no dirty laundry laying around.

She gives the families of the patients kindness and understanding, love and warmth. We highly recommend Linda to anyone should they be seeking foster care and skilled home care.

We are very pleased and satisfied with Linda's care in our personal experience, and compared to what we encountered, she is very capable and excels in her work.

Thank you for listening.

Marguerite Cianchetta
MARGERITE CIANCHETTA

Violet Cianchetta
VIOLET CIANCHETTA

February 19, 1991

To Whom It May Concern:

When it became necessary to move our mother into a care center, we felt very fortunate to have been directed to Bruce and Linda Shelton's foster care. We feel we could not have located a better place for her to be during the last days of her life.

Mother was kept clean, she was dressed in clean clothes all the time and she was kept warm and comfortable. Although she had little appetite, the meals were well prepared and were tailored to her particular needs. We were pleased with the family atmosphere over what is termed a nursing home, even to having a white rabbit and a small dog she could hold and pet.

We certainly will recommend this home over others that we looked into. We would be available for personal references to anyone at any time.

Robert M. Knapp
Ruth Knapp

Robert and Ruth Knapp
Gleneden Beach, Oregon

February 5, 1991

To Whom it may Concern:

My mother has been in the care of Bruce and Linda Shelton for 2 years. She suffers from Alzheimer's disease and is now in the advanced stages of the disease. During her regression, the Shelton's have provided competent, compassionate and loving care for her. They have had many challenges, such as a stroke and broken hip. She now is bedridden, does not talk, needs to be fed a special pureed diet and is on liquid morphine.

I have the utmost confidence in the care she receives in their home. I know they are capable of continuing quality care for her until the end.

Marcia C. Severson

Marcia C. Severson
15120 SE Gladstone St.
Portland, Or. 97236

760-1911

April 12, 1990

Dear Linda:

I would like you to know that I and the other people that loved Aunt Mable appreciate your care of her over the years. You made her last years comfortable and in a loving environment. I feel very fortunate to have had such caring people to work with after I took over as her Conservator - it made my job much easier.

Thank you sincerely and continue your good work.

Thelma Kurnowsky

THOMAS J. LEKAS

ATTORNEY AT LAW

February 14, 1991

SUITE 1111
812 S.W. WASHINGTON STREET
PORTLAND, OREGON 97205
(503) 226-3633

Ursula Jordan
8338 S.E. Rhone
Portland, OR 97266

RE: Nellie E. Osborne

Dear Ms. Jordan:

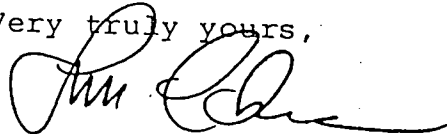
Pursuant to arrangement with the state of Oregon-Department of Aging Services, we enclose herewith a my conservator's check in the amount of ~~\$300.00~~ representing the conservatorship's contribution toward Nellie Osborne's monthly charges. The balance of your charge will be paid by the state of Oregon through the above division.

I have been extremely pleased with the care and attention that Nellie has received under Dove and Mrs. Shelton. I am informed and believe that the same quality and extent of care will be given Nellie despite the change of actual provider from Dove to you. If however you believe there is to be any different or lesser services and care provided Nellie in the future, please let me know immediately as this is of extreme importance to me.

I remain the guardian and conservator for Nellie Osborne and the person with whom you should speak directly concerning the care of my ward, Nellie Osborne.

Call me if you have any questions.

Very truly yours,



THOMAS J. LEKAS

TJL:is
Encls.

cc: Barney Burch

To whom It May Concern:

I would like to recommend
the foster home operated by Linda
Setton at 8333 S.E. Rhine in
Portland, Oregon.

My ninety-one year old aunt
was a resident there for four months
prior to her sudden death in June, 1991.
She seemed to be very happy there
and as far as I could tell was very
well cared for.

The idea of a foster home for
aged adults was new to me and
I found it very satisfactory.

Bethie C. Ormick
4911 N.E. Laurelhurst Lane
Seattle, Wash. 98105

2/20/91

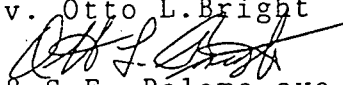
To whom it may concern;

It has been my pleasure for over seven years to know Bruce and Linda Shelton. I was their pastor for several years and watched as their family grew along with their commitment to each other.

I have been in both their home and the foster care home they run and am impressed with the love and concern they show for the people in the home. Some of the people have special needs and the Sheltons are very qualified to handle them with patience and tenderness.

I highly recommend Bruce and Linda and their homes as a great foster care opportunity.

Rev. Otto L. Bright


578 S.E. Paloma ave.

Gresh. Ore.

97080

Feb 17, 1991

To Bruce and Linda

Thank you so
very much for all
you did for Mother
while she was at
your home. We could
not have asked for
better care.

Bob & Ruth Ensey

THOMAS J. LEKAS

ATTORNEY AT LAW

February 21, 1991

SUITE 1111
812 SW WASHINGTON STREET
PORTLAND, OREGON 97205
(503) 226-3633

RE: Dove Foster Homes/Lynda Shelton

To Whom It May Concern:

I have been a practicing attorney before the Oregon State Bar for 30 years. The last nine years a court appointed conservator and guardian for an elderly lady named Nellie E. Osborne. In November of 1988, Mrs. Osborne's physical condition was such that she was unable to look after herself and needed 24 hour a day supervision. I have been confronted with such circumstances in the past and am familiar with the foster home program enunciated by the State of Oregon.

I became acquainted with Lynda Shelton carrying on her business under the name of Dove Foster Homes at 8332 S.E. Rhone Street in Portland, Oregon. I was very pleased with the outstanding condition and facilities that I found Mrs. Shelton's home where other elderly people were attended to under a foster care program. Mrs. Shelton appeared very much in control of her business and facilities and has always appeared and acted in a professional manner, not only as a business person but as a care provider in charge of the physical and emotional needs of elderly people.

On November of 1990, I understood that Mrs. Shelton was retiring from her business in favor of a new undertaking. However, Mrs. Shelton remained considerate of her past wards and the transition of my ward to a new caregiver has been most efficient and without difficulty.

This letter is intended to be one of recommendation for Mrs. Shelton. In short, I have viewed her in the manner in which she has conducted herself and find Lynda Shelton to be prompt, courteous and business-like without sacrificing the personal compassion due her wards.

I would be pleased to speak with anyone inquiring as to the contents of this letter.



THOMAS J. LEKAS
Attorney at Law
812 S.W. Washington St.
Suite 1111
Portland, OR 97205
(503) 226-3633

2-7-95

To whom it may concern

Deed Col, my mother
enjoys living at Linda Shetty
home she is very well
cared for and has good
meals

Deed never complains
and is happy living there.
I am pleased to hear she lives
and the good care she receives

Mrs Linda Frueza
760 N.E. Fairway Dr.
Canby, OR 97013

2/9/95

- 2 -

Dear Linda -

I want you to know that Ed & I appreciate the loving care you give my mother. She loves the children & looks forward to the times they play cards with her. She's always clean, dressed, & ready to go whenever we come by to see her.

She has a good appetite & enjoys your cooking as

well. Please continue supplementing with Ensure to help maintain her weight.

Mom enjoys playing your piano - she was in the Jr. Symphony as a child & loves to play. She also likes the animals which I feel is great therapy for the elderly. Keep up the good work. Linda - we appreciate it!

Sincerely, *Patricia*

Tand WATERS
Dec 4 1995

To whom it may concern -

inda Shelton has asked me to write a few words for her concerning my mother's cure.

My mother suffers from metastasized breast cancer which has spread through her bones. She was already quite frail from this before this year in April when her hysterectomy almost killed her.

It was on her discharge from skilled care at the end of May that I found Linda's home through the newspaper.

At that time, my mother was barely a "Level 2" patient. She was incontinent, combative, and suffering from acute psychological difficulties (tentatively diagnosed as bi-polar disorder).

I write this to show the difficult situation that Mr. Skilton was willing to ~~have~~ accept in taking on my mother, especially at the cost of £900, which was all we could afford.

Since then, I was to later find out, undergone considerable pressure from the state, and from competitors - mostly because of her modest fees - which were in fact the only thing that kept my mother going in my 7th year this discovery of a chance to contribute, - out of the most serious of professional considerations.

I also see the excitement of the family life here in London: home. Admittedly it does get unexcited at times - but still this is so much better than the bleak prospect of nursing homes or so many of those other foster homes I've seen, where the patients are treated as less than human beings.

That, without a doubt in Linda's outstanding quality, and what makes her the excellent caregiver she is: her humanity, which is such a rare, rare thing in elder care.

Yours truly - Gordon



MT. TABOR CARE CENTER

6-21-85

To Whom it may Concern;
Linda Shelton worked for
Mt. Tabor Care Center from
Nov. 8, 1984 to June 30, 1984
She has been both a full
time and part time employee.
Linda is dependable and
her work is very good.
Linda has been an asset
to our Company.

Thank you,

Nancy Cohen RN
Inservice Director
Mt. Tabor Care Center
7100 SE Division
775-8601

Oct. 21, 1985

To whom it may concern;

Linda Shelton has been a certified nurse's aide at Centennial Health Care Center for 14 months during the period of time from January 7, 1982 to March 14, 1983.

She showed a kind and careful manner in handling elderly patients. She was cooperative and followed instructions well without difficulty. Her appearance was neat and presentable. Often she did more than her share of work and encouraged team work with her co-workers.

It would be my pleasure to work with Linda again.

Marcia Rusch L.P.N.
Charge Nurse

2/1/95

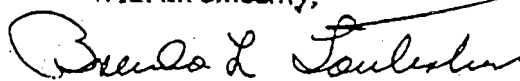
BRENDA LAUTERBACH
2611 NE 32ND. PLACE
PORTLAND, OR 97212

To Whom it May Concern,

My mother, Velda Yeaple has been a resident of the Shelton care facilities since August of 1993. During that time she has been in three different home locations with different care-givers at different times and locations. On a few occasions I have been concerned because of the change over in help, relief help, or as in the case at the present location with the amount of children and young people coming and going and sometimes what seems to be general confusion going on in the house. I have always made it a practice to stop in at odd times unannounced to make sure no neglect or abuse is taking place. I have never once found anything more to complain about then the fact that my mother may have someone else's clothes on. She is always clean and well cared for. Unannounced visits by my father and my mother's brother and sister-in-law as well as other family members have confirmed my findings.

I have considered moving my mother to a location that would be easier for me to visit her more often but I know that the move would be for my convenience and not for my mother's best interest.

With all sincerity,



Brenda L. Lauterbach

January 22 1995

To Whom it may concern-

I, Carl Schick, have been living in a nursing home one and off for the last year which is owned by Linda Shelton. She is a very good worker and takes wonderful care of her children. Her daughter is writing this letter because my writing is poor due to my stroke.

Carl E Schick

Carl E Schick

12-7-95

To whom it may concern;

My wife Gladys M. Adams
was under the care of Linda
Shelton Care home from May 31
1995 till her death Nov 15
1995.

I was very satisfied with
her care there, and Gladys
was much more at ease there
while fighting her Alzheimers
disease than she was at the
two previous homes.

I do hope that Linda can
continue on, so that she can
do others as she did Gladys.

Sincerely
Wayne Adams

January 22, 1991

To whom it may concern;

This letter is in reference to the abilities of Linda Shelton, caregiver in an adult foster care home setting.

I have had the opportunity to observe care provided by Linda to several of the patients residing in her foster home. I would like to provide some input for your consideration.

Linda is an intelligent, compassionate and gentle caregiver, with six years of experience in providing care to elderly and debilitated patients in the foster home setting.

Linda is able to safely administer cares to total care patients who require bed bath, feeding, medication management, catheter care, oral care, complicated skin care dressings, and bowel and bladder incontinence problems.

Linda has demonstrated good judgement in calling appropriately for advice and assistance when complex problems arise.

In my professional opinion, Linda is capable of being delegated complex patient care tasks, with good demonstration and follow through abilities.

I have had the privilege to have made multiple home visits, in a professional capacity, to two foster care homes in which Linda has provides cares and management. I have found these homes clean, neat and the conditions pleasant for the clients who live there.

I would highly recommend Linda and her foster care home to clients in need of such services.

Sincerely,

Charlene G. Toole R.N.

Charlene G. Toole B.S.R.N.
Nurse Manager
Visiting Nurse Assn.

LINDA SHELTON

PORTLAND, OR

DEAR LINDA

I KNOW I AM LATE WITH MY THANKS FOR THE EXCELLENT CARE YOU PROVIDED FOR ELSIE THURSTON. AS YOU KNOW BEING RETIRED I HAD NO SET DAY OR TIME TO STOP AND SEE HER BUT ALWAYS FOUND HER CLEAN AND WELL CARED FOR. I HAVE BEEN IN OTHER HOMES AND THEY ALL HAD DISTINCT ODORS. I NEVER NOTICED THIS TYPE OF ODOR IN YOUR HOME.

I REALIZE SHE MUST HAVE BEEN MOST DIFFICULT TO CARE FOR HER LAST FEW MONTHS. HAVING TO PUREE HER FOOD AND HAND FEED HER MUST HAVE TRIED YOUR PATIENCE AT TIMES.

THANK YOU AGAIN FOR THE EXCELLENT CARE. I HAVE RECOMMENDED YOU TO SEVERAL PEOPLE WHO HAVE NEEDED HELP TAKING CARE OF THEIR ELDERLY

SINCERELY

Dick Tiedem



5200 S.W. Meadows Road, P.O. Box 1689, Lake Oswego, Oregon 97035-0889
(503) 620-0222 or WATS 1-800-452-8260, FAX: (503) 684-1366

February 21, 1996

Valerie L. Young
2320 NE 165th
Portland, OR 97230

Dear Ms. Young:

In response to our letter of February 2, 1996, attorney Mary M. Fassell has sent us the enclosed materials in answer to your complaint.

Please review the enclosure and provide us with any additional information you wish to have us evaluate no later than March 6, 1996. Shortly thereafter we will determine whether this matter warrants further investigation by the Bar. You will be notified of our decision.

Very truly yours,

Chris L. Mullmann
Assistant Disciplinary Counsel
Extension 392

CLM:cw

Enclosure

cc: Mary M. Fassell, Esq.



RECEIVED
FEB 21 1996
DISCIPLINARY COUNSEL
MULTNOMAH COUNTY OREGON

AGING SERVICES DIVISION (503) 248-3646
ADULT CARE HOME PROGRAM (503) 248-3000
FAX: (503) 306-5722
421 SW 5TH, ROOM 405
PORTLAND, OR 97204-2221

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN • CHAIR OF THE BOARD
DAN SALTZMAN • DISTRICT 1 COMMISSIONER
GARY HANSEN • DISTRICT 2 COMMISSIONER
TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

February 21, 1996

Chris L. Mullmann
Oregon State Bar
P.O. Box 1689
Lake Oswego, Oregon 97035-0889

Dear Mr. Mullmann:

I am responding to your letter of February 2, 1996, requesting my response to the allegations made to you by Valerie L. Young.

I work for Multnomah County's Adult Care Home Program as the Sanctions Specialist. I am not working as an attorney in my position and I have made this very clear that I am not working as an attorney. The agency licenses and regulates foster homes for elderly and disabled adults in Multnomah County. As part of my job I decide and implement sanctions against licensed operators of adult care homes who violate the rules and standards for the operators. Valerie Young's license has been revoked and she is currently appealing the revocation of her license.

My responses to Valerie's allegations are as follows:

1. **Allegation:** An administrative conference which I attended was conducted improperly.

Response: As an operator of an adult care home, Valerie was entitled to an administrative conference according to the Multnomah County Administrative Rules governing adult care homes. Valerie requested such a conference from our program manager. She was told that we could not discuss the allegations of the investigation of the problems in her adult care home until the investigation was complete. Valerie insisted that she had additional information that she wanted to give us so a conference was scheduled. However, at the conference Valerie did not have additional information but rather insisted that we discuss the problems in her home which were under investigation and which we were not prepared to do.

2. **Allegation:** I copied confidential records of clients.

Response: The administrative rules for Multnomah County Adult Care Homes require licensed operators to keep records. These records include records of medications given, care plans of the clients, doctor's orders and progress notes. The administrative

rules permit the staff of the Adult Care Home Program to have access to these records as a regulatory function of the Adult Care Home Program. The Adult Care Home Program has interpreted the administrative rules to permit copying of these records as well. The Adult Care Home Program keeps these copies confidential.

The Adult Care Home Program staff also has implied access to records under the statutes that require investigation of complaints of elder abuse. See ORS 410.650.

I was part of a team that copied the client records both as a regulatory function and as part of an abuse investigation.

3. Allegation: I refused to give Valerie copies of copies of her clients' medication records.

Response: Our staff copied the medication records of clients in Valerie's home. These copies are confidential and are not to be re-released. Therefore I denied Valerie's request for copies of the copies our staff had made.

I trust that this response is adequate for your needs. If you have any further questions feel free to call me at 248-3000, extension 2624.

Sincerely,

Mary M. Fassell

Mary M. Fassell, Sanctions Specialist
Multnomah County Adult Care Home Program



5200 S.W. Meadows Road, P.O. Box 1689, Lake Oswego, Oregon 97035-0889
(503) 620-0222 or WATS 1-800-452-8260, FAX: (503) 684-1366

February 21, 1996

Mary M. Fassell, Esq.
#405
421 SW Fifth Avenue
Portland, OR 97204

Dear Ms. Fassell:

Enclosed is a further letter we received from Valerie L. Young in connection with her complaint against you.

Please review the enclosure and provide us with any additional information you wish to have us evaluate no later than March 6, 1996.

Thank you for your cooperation.

Very truly yours,

Chris L. Mullmann
Assistant Disciplinary Counsel
Extension 392

CLM:cw

Enclosure

cc: Valerie L. Young
2320 NE 165th
Portland, OR 97230

18-4/90

=== COVER PAGE ===

RECEIVED

FEB 14 1996

DISCIPLINARY COUNSEL

TO: _____

FAX: 6841366

FROM: VALERIE L YOUNG AFC

FAX: 261-1429

TEL: 2611429

COMMENT: PLEASE CALL IF YOU NEED TO

R.O.A. PROVIDERS ASSC.
2320 N.E. 165th DR.
Portland, OR. 97230
PH. 261-1429 / Fax 261-1429

2/12/1996

ATTENTION: Chris Mullman,

I filed a complaint regarding Mary Fassel who has been befriending me for the poast 3½ months only to find out that she is my proscicuting attorney. I spoke with Ms. Roberts, and she gave me a responding letter from Mary Fassell stating that she is not the prosecuting attorney in the alligations hearings. Mary, being the sanctions specialist is suppose to be bias, a nutruual metiator, yet before you is proof that she is talking and confereing with defendants Attorney's, and defendandts while at the same time building a case against us in the hearing.

My attorney Mark Cottle can verifie this fact to you. I am sending you a copy of my hearings paper that clearly indicates what part Mary Fassell plays in the hearings. I ask that the Bar continue this investication and resolve this matter with justice. Thank you for your time and consideration

RESPECTFULLY

Terry Lee 2/12/96
Assitant Director R.O.A. Asc.

CITY OF PORTLAND -- Code Hearings Office
1120 S.W. 5th Avenue, Room 1017, Portland, OR 97204
(503) 823-7307 / FAX (503) 823-4347

NOTICE OF HEARING -- Appeal Hearing # 154134

Date Mailed: Fri, Jan 19, 1996

Multnomah County

vs.

Valerie Young *
Respondent(s) / Appellant(s)

Type of violation or nature of determination: appeal - adult care facility
Date of exclusion order or other determination:
Complaint or appeal was filed in the Code
Hearings Office on: Friday, December 29, 1995
Bureau case # (if known):
City / County representative: Mary Fassell
Property:

You are notified that a hearing will be held in the above proceeding on:

Date: Friday, February 23, 1996 Time: 9:00:00 AM
Place: Meeting Room A, second floor of the Portland Building,
1120 S.W. 5th Avenue, Portland, Oregon
Purpose: New case

**ALL REQUESTS FOR POSTPONEMENTS AND CONTINUANCES MUST BE IN WRITING AND
FILED WITH THE CODE HEARINGS OFFICE AT THE ADDRESS AT THE TOP OF THIS
NOTICE.**

This notice has been mailed to the following parties:

Valerie Young * 2320 N.E. 165th Drive Portland OR 97220
Mark O. Cottle Attorney at Law
4000 Kruse Way Place, Bldg. 1, #265 Lake Oswego OR 97035
Mary Fassell Mult. Co. Adult Care Home Program
421 S.W. 5th Avenue, #405 Portland OR 97204-2221
Code Hearings Office

**If you have any questions concerning this proceeding,
please call (503) 823-7307 for further information.**

If you need a sign language interpreter or an FM loop amplifier for this hearing, you may contact Darla Broberg or Ruth York at the Hearings Office, 823-7307, or the City Information TDD, 823-6868.

Please call during business hours AT LEAST TWO BUSINESS DAYS PRIOR to the hearing so arrangements can be made.

**MULTNOMAH COUNTY OREGON**

RECEIVED

FEB 07 1996

DISCIPLINARY COUNSEL

AGING SERVICES DIVISION (503) 248-3848
ADULT CARE HOME PROGRAM (503) 248-3000
FAX: (503) 308-5722
421 SW 5TH, ROOM 405
PORTLAND, OR 97204-2221

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN • CHAIR OF THE BOARD
DAN SALTZMAN • DISTRICT 1 COMMISSIONER
GARY HANGEN • DISTRICT 2 COMMISSIONER
TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

February 6, 1996

Chris L. Mullmann
Oregon State Bar
P.O. Box 1689
Lake Oswego, Oregon 97035-0889

Dear Mr. Mullmann:

I am responding to your letter of January 17, 1996, requesting my response to the allegations made to you by Dianna Roberts.

I work for Multnomah County's Adult Care Home Program as the Sanctions Specialist. ~~I am not working as an attorney in my position and I have made this very clear that I am not working as an attorney.~~ The agency licenses and regulates foster homes for elderly and disabled adults in Multnomah County. As part of my job I decide and implement sanctions against licensed operators of adult care homes who violate the rules and standards for the operators. Dianna Roberts' license has been revoked and she is currently appealing the revocation of her license.

My responses to Dianna's allegations are as follows:

1. Allegation: I copied confidential records of private pay clients.

Response: The administrative rules for Multnomah County Adult Care Homes require licensed operators to keep records. These records include records of medications given, care plans of the clients, doctor's orders and progress notes. The administrative rules permit the staff of the Adult Care Home Program to have access to these records as a regulatory function of the Adult Care Home Program. The Adult Care Home Program has interpreted the administrative rules to permit copying of these records as well. The Adult Care Home Program keeps these copies confidential.

The Adult Care Home Program staff also has implied access to records under the statutes that require investigation of complaints of elder abuse. See ORS 410.650.

I copied the client records both as a regulatory function and as part of an abuse investigation.



5200 S.W. Meadows Road, P.O. Box 1689, Lake Oswego, Oregon 97035-0889
(503) 620-0222 or WATS 1-800-452-8260, FAX: (503) 684-1366

February 2, 1996

Mary M. Fassell, Esq.
#405
421 SW Fifth Street
Portland, OR 97204

Dear Ms. Fassell:

The Oregon State Bar has received the enclosed correspondence from Valerie L. Young, who has expressed concern about your conduct.

It is my responsibility to investigate these allegations to determine whether your conduct complies with the provisions of ORS Chapter 9 and the Code of Professional Responsibility. In order to permit me to make a fair and informed analysis of these allegations, I request your response to them on or before February 23, 1996, as required by BR 2.5(b)(1).

When I receive your response, I will send a copy of it to the complainant. I will, if appropriate, request that the complainant comment upon your response. All materials submitted in the course of this investigation are considered public records, and both parties will receive copies. If, after I receive all of the requested documentation, I feel that further consideration of the allegations is warranted, the matter will be submitted either to your Local Professional Responsibility Committee for investigation or to the State Professional Responsibility Board, with notice to you and the complainant. The Board ultimately will determine whether or how to proceed further. You and the complainant will be notified of the Board's decision.

I am confident that I will receive your full cooperation in this investigation. You should be aware, however, that failure to respond to these allegations constitutes a violation of DR 1-103(C). Should I not receive your response on or before the date specified above, I will refer this matter to your Local Professional Responsibility Committee for formal investigation. I am able to grant an extension of time to respond for good cause if requested in writing before the deadline.

Letter to Mary M. Fassell, Esq.
Page 2

Thank you in advance for your cooperation. I look forward to a fair and expeditious review of this matter.

Very truly yours,

Chris L. Mullmann
Assistant Disciplinary Counsel
Extension 392

CLM:cw

Enclosure

cc: Valerie L. Young
2320 NE 165th
Portland, OR 97230

*1-3/94

A# DISCP ①

RECEIVED

JAN 22 1996

DISCIPLINARY COUNSEL

To whom it may Concern,
Re: Mary Fassell

I Valerie Young Received A notice Oct 16th 95 that my Licence As An Adult Care foster Home was Revoked, on Oct 18th my people were Remove, 1st person on the 16th the day I Received the Letter, I had no ~~opportunity~~ time to Request A Hearing, I did Ask for An Administrative Conference, which my Attorney Terry Kraemer ^{file # 241 3360} was present, After Sitting down At the table with, Mary Fassell, Glean Demasters, Heather Stuart, And Carol Isman, I was Asked who should start, I told Mary to go Ahead, She stated she only had ~~two~~ @ questions to Ask me, which she did. I was then told to go ahead, my Attorney Asked for the first Aliqation to be presented At that point Mary said

(2)

they had no Access to Any information Regarding my Allegations, yet everyone of them had files sitting in front of them, and they Refused to tell me what they were nor discuss them, at this point.

And this Conference was weeks After my Home was closed.

ORS

(Violation) 015-135

Administrative Conference means A meeting w/me to Review identified problems, Violations and deficiencies, to Review an Administrative Sanction, And OR to Review means for Achieving Satisfactory and timely Compliance.

Also my Residents were moved to other Locations while under Quarantined Hepatitis A.

(3)

Mary Fassell Also Brought
in A copy machine, made copies
of my private Residents files
ORS -441-605.8

Also Removed, & Medication
Records from my file,
when I Ask her to Return
them she said she did not
have the originals, so I
Asked her for a copy of her
copies, she then told me
that it was Confidential
information And I could
not, Also 2 witnesses
were present when I Asked
mary Fassell.

Patricia Cox

Kristina Morris

Valerie L Young



5200 S.W. Meadows Road, P.O. Box 1689, Lake Oswego, Oregon 97035-0889
(503) 620-0222 or WATS 1-800-452-8260, FAX: (503) 684-1366

March 22, 1996

Mary M. Fassell, Esq.
#405
421 SW Fifth Avenue
Portland, OR 97204

Dear Ms. Fassell:

Enclosed you will find a copy of a recent facsimile transmission that I received from Diana Roberts. Although I had earlier indicated in my letter of March 7, 1996 that it appeared that my initial investigation of the matter was concluded and that I would in the future analyze the matter to determine if any further action should be taken, I felt that the latest information that had been submitted to me should be included in your file. I do not believe that the information requires any response from you; however, if you believe you do want to respond, please do so on or before April 5, 1996.

Sincerely,

Chris L. Mullmann
Assistant Disciplinary Counsel
Extension 392

CLM:cjk
Enclosure

cc: Dianna J. Roberts
19390 NE Multnomah Court
Portland, OR 97230

FAX COVER LETTER

RECEIVED

MAR 26 1996

DISCIPLINARY COUNSEL

DATE 3, 20, 96

TO: Chris Mullman FAX 684-1366
PHONE 620-0222

FROM: DIANNA ROBERTS - FAX 1503/661-4763 (On 8:00 a.m. to 5:00 p.m.)
PHONE 1503/666-9121

(IF YOU HAVE A PROBLEM SENDING
THE FAX OR ARE TRYING TO SEND ONE
AFTER 5:00 P.M., PLEASE CALL 666-9191
AS I OFTEN TURN IT OFF AT 5:00 P.M.)

PAGES 5 INCLUDING COVER LETTER

COMMENTS _____

March 20, 1996

Mary Fassell, Sanctions Specialists
Aging Services Division
Adult Care Home Program
Multnomah County Oregon
421 S.W. 5th, Rm. 405
Portland, OR 97204

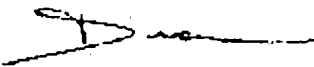
Dear Mary:

Pursuant to Jim McConnell's letter of October 17, 1995, please provide me a copy of my file, which assures compliance with laws of confidentiality.

Please reference my letter of January 9, 1996 confirming this same request by phone and followed with a letter. It will be impossible for me to participate in the scheduled March 28th hearing without having this file.

Regards,

ROSEWOOD CARE, INC.



Dianna J. Roberts
Owner/Manager

cc: Oregon State Bar, Chris Mullman
Carol Rex, Deputy Director, Aging Services Division
Katie Gactjens, Multnomah County Counsel

March 20, 1996

FAX 823-4347
Ph. 823-7307
Certified Mail - RRR

City of Portland
Code Hearings Office
1120 S.W. 5th. Ave., Rm. 1017
Portland, OR 97204

APPEAL HEARING # 161035 & 154001 - DIANNA J. ROBERTS

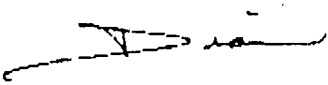
Dear Code Office:

Apparently the subject hearing is scheduled for March 28, 1996. Since my last request sent by Certified Return Receipt Request U.S. Mail, was lost, I am by way of this letter requesting a 60-day continuance. Please reference the attached letter addressed to Mary Fassell with a carbon copy to the Oregon State Bar. It is imperative that this request be granted.

Thanking in advance for your consideration.

Respectfully

ROSEWOOD CARE, INC.



Dianna J. Roberts
Owner/Manager

cc: Oregon State Bar
Katie Gaeljens, Multnomah County Counsel

January 9, 1995

HAND DELIVERED

Jean DeMaster, Manager
Adult Care Home Program
Multnomah County Oregon
421 S.W. 5, Rm. 405
Portland, OR 97204

Certified -RRR - P 474 769 439

Dear Jean:

Re: Phone Conversation This Date

Thank you for returning my phone call. However, I was disappointed that you would have MARY FASSELL phone me within 5 minutes with a 'legal opinion'. It seems more appropriate that you would have consulted with the County Counsel, Katie Gactjins as opposed to the "Sanctions Specialists", MARY FASSELL. To have expected to resolve anything over the phone, apparently, was my mistake. BECAUSE, we just get into a, "that's not what I said" situation.

I inquired about:

- 1) The fact that my name was not on the Adult Foster Care Home Registry for December, and, I presume January, although I have not seen it. Because it is not on the Registry, I did not receive notice of the meeting this evening. It is my position that until a FINAL ORDER has been issued, my name should remain on the Registry.
- 2) In your letters of August 18, September 15, October 13, November 9th, and Mary Fassell's letter of November 28, each states that, "This office's file on your Adult Care Home would automatically become part of the information available to the Hearing Officer." In light of this statement, my attorney requested a copy of 'my file'. In your letter of October 19 you advised me this copy would cost me \$93.50 and was available to be picked up, which I did. This afternoon MARY FASSELL just informed me this file was "confidential" and would not be made available to the Hearing Officer.

Jean, would you please reinstate my name on the Registry, AND provide me with a copy of 'the file' which actually will be made available. I would like to have a copy to take to my attorney. How can I be expected to retain an attorney without accurate information? This misstatement of fact, if it is a misstatement, has costs me undue expense with my

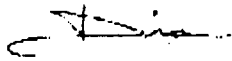
Jean DeMaster
January 9, 1995
Page 2

previous attorneys. (If this file were boldly and accurately numbered, it would certainly be beneficial from a reference standpoint at a Hearing.)

Please advise.

Respectfully,

ROSEWOOD CARE, INC.



Dianna J. Roberts
Owner/Manager

cc: C. Gaetjins
Jim McConnell
Carol Rex



5200 S.W. Meadows Road, P.O. Box 1689, Lake Oswego, Oregon 97035-0889
(503) 620-0222 or WATS 1-800-452-8260, FAX: (503) 684-1366

March 7, 1996

Mary M. Fassell, Esq.
#405
421 SW Fifth Avenue
Portland, OR 97204

Dear Ms. Fassell:

Please find enclosed the most recent correspondence I have received from Dianna J. Roberts.

It appears that my initial investigation of this matter is concluded. I will, in the near future, analyze this file to determine whether further investigation by the Bar is warranted. I will advise both you and Ms. Roberts of my decision.

Very truly yours,

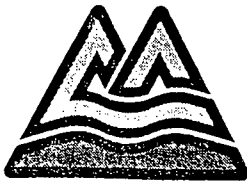
Chris L. Mullmann
Assistant Disciplinary Counsel
Extension 392

CLM:cw

Enclosure

cc: Dianna J. Roberts
19390 NE Multnomah Ct.
Portland, OR 97230

20-4/90



MULTNOMAH COUNTY OREGON

AGING SERVICES DIVISION (503) 248-3646
ADULT CARE HOME PROGRAM (503) 248-3000
FAX: (503) 306-5722
421 SW 5TH, ROOM 405
PORTLAND, OR 97204-2221

BOARD OF COUNTY COMMISSIONERS
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DAN SALTZMAN • DISTRICT 1 COMMISSIONER
GARY HANSEN • DISTRICT 2 COMMISSIONER
TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

March 6, 1996

Chris L. Mullmann
Oregon State Bar
P.O. Box 1689
Lake Oswego, Oregon 97035-0889

Dear Mr. Mullmann:

I am responding to your letter of February 21, 1996, requesting my response to the second letter received by you by Dianna Roberts.

My response is as follows:

I have never used the title "counsel" in any of my work for the Adult Care Home Program. Dianna is probably referring to letters sent from the hearing office to her listing me as County representative.

County counsel has told me that our agency does not have the duty to state to providers their right to an attorney at administrative conferences. Our administrative rules, which all adult care home operators receive a copy of, indicate their rights regarding conferences and hearings. The rules simply state, under "Procedures for Hearings" that "Any party has a right to be represented by an attorney." Multnomah County Administrative Rule 890-090-310. The rules are silent as to a party's right to an attorney at a conference. In practice we allow the operator to bring anyone they want to as long as they do not bring too many people.

I trust that this response is adequate for your needs. If you have any further questions feel free to call me at 248-3000, extension 2624.

Sincerely,

Mary M. Fassell, Sanctions Specialist
Multnomah County Adult Care Home Program

RECEIVED

MAR 08 1996

DISCIPLINARY COUNSEL



5200 S.W. Meadows Road, P.O. Box 1689, Lake Oswego, Oregon 97035-0889
(503) 620-0222 or WATS 1-800-452-8260, FAX: (503) 684-1366

February 21, 1996

Mary M. Fassell, Esq..
#405
421 SW Fifth Avenue
Portland, OR 97204

Dear Ms. Fassell:

Enclosed is a further letter we received from Dianna J. Roberts in connection with her complaint against you.

Please review the enclosure and provide us with any additional information you wish to have us evaluate no later than March 6, 1996.

Thank you for your cooperation.

Very truly yours,

Chris L. Mullmann
Assistant Disciplinary Counsel
Extension 392

CLM:cw

Enclosure

cc: Dianna J. Roberts
19390 NE Multnomah Ct.
Portland, OR 97230

February 20, 1996

RECEIVED
FEB 20 1996
DISCIPLINARY COUNSEL

Chris L. Mullmann
Assistant Disciplinary Counsel
OREGON STATE BAR
5200 S.W. Meadows Rd.
P.O. Box 1689
Lake Oswego, OR 97035-0889

Dear Chris:

RE: YOUR LETTER 2/7/96 - MARY FASSELL

In rebuttal to Mary Fassell's letter of February 6, 1996:

In her Para. 2, Mary states she is not working as an attorney. I believe she is. In correspondence available at the City of Portland Code Hearing Office, she has used the title counsel after her name. She also neglected to inform you that she is the person who signed the letter revoking my license to operate and Adult Foster Care Home, which I have done for the past 11 years with numerous letters of reference from doctors, nurses and family members. She represents the county at these hearings against other attorneys for Adult Foster Care Providers. In the spring of 1995, Mary was consulted by Bunny Harrold, R.N., when I requested a difference contract nurse. Mary refused to grant this request. I believe this was a direct retaliation of the situation, which occurred in 1993. (Letters enclosed -2)

Allegation #1 - ORS 441.605.8 protects the records of private pay clients records unless written permission has been given. Article IV of the U.S. Constitution protects citizens from searches & seizures of personal property without a search warrant. Obviously, The Constitution takes precedence over any Multnomah County Administrative Rule. I have enclosed an affidavit from Cheryl Banks indicating that Mary did, in fact, photo copy considerably more of my personal records that she admits to here in her letter. Mary has enclosed a letter to Mark Cottle. He represents MANY Adult Foster Care Providers. I have never seen this letter. AND, Mark has routinely copied me everything relating to my case at my specific request. I have my complete file from Mark as he has not represented me since approximately November.

Allegation #2 - Mary indicates she told me that I could bring an attorney. Enclosed please find attachments number 5-8 concerning this issue. At no time did Mary indicate I should be represented by counsel or that she was an attorney, or that I could bring witnesses, or a lobbyist, or that they would be allowed to give testimony even if they attended this conference in my behalf. My witness were, in fact, immediately told their testimony would no relevance in this hearing.

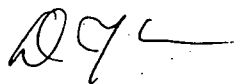
Chris Mullman
February 20, 1996
Page 2

Allegation #3 - Mary states that the tape recorder was in the middle of the table. This implies that everyone in attendance gave permission to be taped. This is incorrect. Affidavits from Jackie Doak and Winfield Scragg are enclosed. Their statements and testimony were given within 5 minutes after the OPENING of this conference as well as throughout the conference. Mary states the tape ran out. This is incorrect.

Allegation #4 - I requested the second conference on June 26th to get testimony 'on the record' from Tom Glenn, who was unable to attend to June 22nd conference. Tom indicated to me that he did receive a letter requesting his attendance at the June 22nd conference from the Aging Service Division. (I do not know if it came from Jean DeMaster or Mary Fassell.) His testimony was crucial to my case and in my favor. I would have no reason to 'imply that someone else wanted it'. Obviously, I wanted it to benefit me, as his testimony should have. Unfortunately, the conference was not ruled in my favor. The agenda of the conference was an allegation by a patient in my Adult Foster Care Home that I had borrowed money (\$5-10 for groceries) from her (a Medicaid resident with a mental disorder with only a \$75.00 a month allowance). The allegation was ludicrous, as I presented documentation that I have no need to borrow money from anyone and Jackie Doak verbally confirmed this on tape. This patient is her mother and Winfield's mother-in-law. Approximately 7 issues were brought up regarding my integrity, which came across like a conspiracy. I was in tears before I left and that wasn't on the tape either. I should have been informed prior to the conference that they planned to discuss these issues with me, so that I could have been represented by legal counsel. The tape was without question edited.

Allegation #5 - I feel Mary should not involve herself with my license and livelihood. It is every attorney's fiduciary duty to remove themselves in cases where bias can be shown.

Respectfully,



Dianna Roberts

Enc. Letter - 7-7-93
Letter - 7-13-93
Affidavit - Cheryl Banks
Affidavit - Jackie Doak
Affidavit - Winfield Scragg
Attachments 5-8

July 7, 1993

Ms. Mary Fassell, Atty.
Department of Human Resources
421 S. W. 5th
Portland, OR 97204

Dear Ms. Fassell:

In regard to your telephone request this morning to set up an appointment with Mr. Balog to discuss problems in my AFH, I indicated I was not aware of any problems. Carol Isaman has been out as recently as June 14, 1993; and at that time she had found zero deficiencies. I requested that, if, in fact, there were some deficiencies, I would like to be advised of them in writing.

I do not feel that this is an unreasonable request. Please be advised that I vehemently resent being accused of being uncooperative and threatened with a \$1,000.00 fine. I will repeat again, I will be happy to meet with Mr. Balog anytime of any day after receiving a written notice of a deficiency.

Respectfully,

Dianna J. Roberts

Dianna J. Roberts
19390 N.E. Multnomah Ct.
Portland, OR 97230
666-9121

cc: Mr. S. Balog
Dr. G. Nakao ✓
Mr. J. McConnell



MULTNOMAH COUNTY OREGON

DEPARTMENT OF SOCIAL SERVICES
AGING SERVICES DIVISION (503) 248-3646
ADULT CARE HOME PROGRAM (503) 248-3000
421 S.W. 5TH, ROOM 405
PORTLAND, OREGON 97204-2221

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SHARRON KELLEY • DISTRICT 4 COMMISSIONER

July 13, 1993

Ms. Dianna J. Roberts
19390 N.E. Multnomah Ct.
Portland, OR. 97230

Dear Ms. Roberts:

I am writing to you about your letter concerning Ms. Mary Fassell's telephone call to you on July 7, 1993. I requested Ms. Fassell, who is on my staff, to call you to set up a meeting about some concerns that Carole Isaman had about your home. I shared these concerns. At this time they appear to be relatively minor concerns, but I thought it would be convenient and in the best interest of all to simply sit down and discuss them. Ms. Fassell may have misunderstood my intent and thought that the issues involved were more serious than they are. This was my responsibility for not making the purpose of the meeting more clear to her. I apologize for any concern that this may have caused you. It was an honest attempt to resolve some issues in an informal way.

I have asked Carole Isaman to put in writing the concerns she has. Again, these appear to be minor concerns at this time. These are mostly about some issues that the Ombudsman Program have asked us to look into and some others that Carole has already talked to you about. We will certainly honor your request, which is reasonable, that we put our concerns in writing. At this point, we can certainly deal with these through correspondence from Carole Isaman.

Sincerely,

Stephen P. Balog, Manager
Adult Care Home Program

c. Carole Isaman
Dr. Gary Nakao
Mr. Jim McConnell

AFFIDAVIT

I, Cheryl Banks, work at Dianna Roberts Adult Care Home. I was on duty the day that Mary Fassell and Melinda Maxwell (September 5, 1995) came out with their portable photocopying machine and copied three (3) of Dianna's notebooks containing patient care plans, progress notes, medication charts, etc. including her former patient, Flonnie McClane's records. They also copied all the pages in a binder boldly marked CONFIDENTIAL.

On October 11, 1995, Dianna informed me that they were coming out again to copy records back seven (7) years, since one of her residents has been with her that long. In Annette Potts letter of September 12, 1995, she also states the same -- that she wants records back seven (7) years. I worked ALL that day and no one showed up or even afforded Dianna the courtesy of a phone cancellation.

I have read Jean DeMaster's letter of October 13, 1995 in which she suspended an additional 30 days of admissions to Dianna's home. In this letter she claims Dianna has refused to allow her records to be photocopied. This is simply not true. I was also working on September 15, 1995, when Jean DeMaster called and cancelled an appointment on that day as well indicating Mary Fassell had suddenly-taken ill and gone home for the day.

I have also read Jean DeMaster's letter of September 15, 1995, imposing an additional 30-day suspension of admissions. This adds up to three (3) suspensions totaling 90 days. In this letter she enclosed and sited a complaint which read:

- 1) Resident #1 threw food at resident #2.
- 2) Resident hit caregiver, caregiver quit.

To impose a total of 90 days of suspensions for the actions of residents is unconscionable. These actions should in no way be regarded as a "complaint".

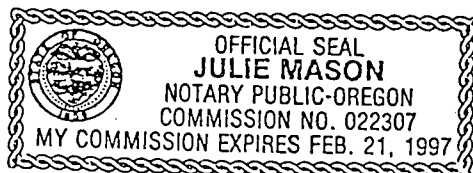
I SWEAR THE ABOVE TO BE A TRUE AND SWORN STATEMENT OFFERED OF MY OWN VOLITION AND NOT DUE TO DURESS OF ANY NATURE.

Cheryl M Banks
Cheryl Banks

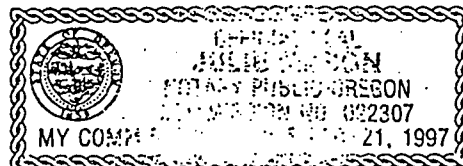
SUBSCRIBED AND SWORN BEFORE ME THIS 16 DAY OF Oct, 1995.

COUNTY OF Multnomah
STATE OF Oregon) SSS

2-21-97
My Commission Expires



Julie Mason
(Notary Public)



AFFIDAVIT

I, Jackie Doak, have listened to the tape of the conference regarding my mother, Flonnie McClane's, allegation that Dianna Roberts borrowed \$5-10 for groceries from her. This conference was held in the conference room of the Adult Foster Care Home Program, located at 421 S.W. 5th, Rm. 405, in Portland, Oregon on June 22, 1995. During this conference Jean DeMaster, Manager of the Program, was quite rude to Mrs. Roberts and not interested in anything my brother-in-law, Winfield Scragg, or myself had to say.

The tape has clearly been tampered with as it contains very little of our testimony in Mrs. Roberts' behalf. I did not then, nor will I ever be convinced that Mrs. Roberts borrowed money from my mother. I am informed that you have refused to take this substantiated complaint off her record, or even allow for it to be re-investigated. Although, I do not consider my mother incompetent, she does have tendencies to fabricate stories for attention.

Your agency has moved my mother five (5) times since August 14th, which brings the total number of times she has been moved this year to seven (7). My brother and sister are terribly upset with the treatment my mother has received at the hands of your agency. We were very satisfied with the care Mrs. Roberts provided our mother the past six (6) years.
I SWEAR THE ABOVE TO BE A TRUE AND SWORN STATEMENT.

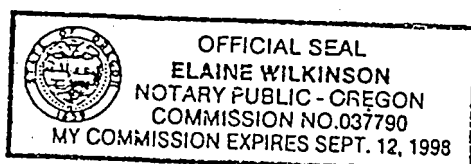
Jackie Doak
Jackie Doak

SUBSCRIBED AND SWORN BEFORE ME THIS 12 DAY OF October, 1995

COUNTY OF Multnomah
STATE OF Oregon } SSS

Sept 12, 1998
My Commission Expires

Elaine Wilkison
(Notary Public)



AFFIDAVIT IN THE MATTER OF DIANA ROBERTS
AND OREGON AGING SERVICES.

I Winfield Scragg, being first duly sworn
upon oath, deposes and states the following

1. I was present and attended the meeting at
Aging Services held on June 22, 1995.
2. It was my understanding that the matters
discussed at that meeting were settled and
finished.
3. The tape of that meeting has been edited
and does not contain everything that was stated
by myself and my sister-in-law, Jaqueline Doak.
4. I believe that the record should stand
as we left it on June 22, 1995 , complete and
finished.
5. Ms. Diana Roberts gave complete and
excellent care to my mother-in-law, Flonnie
McClane, throughout the many years she was
in Ms. Roberts care.
to be in care.
6. My wife, Darlene Scragg, (Flonnie McClane's
daughter) and I arrived with no notice to check
on Flonnie McClane and we never found her or
any of Ms. Robert's patients, being mistreated
or ignored. We saw nothing but the best of
treatment. The house was very clean and the
bathrooms were clean and in good working order.
The food was plentiful and well prepared.
7. I would not hesitate to place any of my

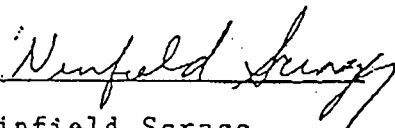
friends, relatives or myself in Ms. Roberts care.

8. Flonnie McClane, in the time I have known her, will do and say anything to get her own way. She will make up stories and swear they are true.

She loves to create scenes and fake illness so she can go to a hospital. I cannot tell you how many times the family has rushed to the hospital only to find she has faked another illness and the doctors can find nothing wrong with her. She has just recently done this again as you can check with Providence Hospital on Oct. 7th, 1995.

9. I do not think that patients should be withheld from Ms. Robert's care because of the imagined or glorified claims of my mother-in-law Flonnie McClane.

DATED this 11 day of October, 1995, at Anchorage, Alaska.



Winfield Scragg

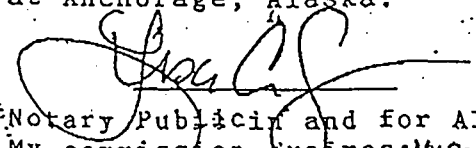
1920 E. 66th

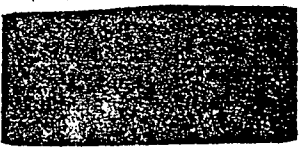
Anchorage, Alaska 99507

SUBSCRIBED and SWORN to before me this

11th day of October, 1995, at Anchorage, Alaska.




Notary Public in and for Alaska
My commission Expires: My Commission Expires
October 22, 1996



June 18, 1995

Mary Fassell, Attorney
Aging Services Division
Multnomah County
421 S.W. 5th, Room 405
Portland, OR 97204

RECEIVED
JUN 19 1995
ADULT CARE HOME PROGRAM

Dear Marry:


Re: Administrative Hearing - 6/22/95 - Confirmation

This letter will confirm our hearing scheduled for June 22, 1995 at 3:15pm. Would you please FAX (FAX No. 669-5325) me the procedure guidelines for 'administrative hearings' that we discussed on the phone on June 15th. Also, please include information about the time frame required for a determination on an administrative hearing.

Second, since whether or not one of my residents should, or should not be considered a 'reliable witness' will be paramount in the determination of this hearing, please provide me with a copy of the guidelines your agency uses to train its investigators in making this determination prior to sending them out in the field.

Respectfully,

ROSEWOOD ADULT CARE HOME


Dianna Roberts
Owner/Operator

ATTACH
#5

ATTACH
6

JUN-19-95 MON 16:18 Aging Services Division P. 01

ist-it Fax Note 7672

Dianna Roberts

669-5325

No. of Pages
From Mary Fussell
Company Multnomah County Adult Care Home
Location Program
Fax #
Original
Disposition
Today's Date 6/19/95
Time
Dept. Charge
Telephonic # 248-3000 x 2624
☐ Destroy ☐ Return ☐ Call for record

ere are the copies of the Adult Care Home Rules governing administrative conferences. They are the only ones we have. The Program Manager will indicate to you what time frame she wants for any decision she may give, generally it is 2 weeks. Our investigators are required to use their good judgement and training in the mental health field since most of them have masters degrees.

06/19/95 18:01 3503 009 7083

SAFeway #1289

Section

101

890-080-700

p 72 - 73

- 890-080-300 Compliance with Administrative Sanctions Refer to MCC
8.90.080 (A) through (C)
- 080-310 The Department may require attendance by an operator at an administrative conference prior to or as part of the imposition of an administrative sanction(s).
- 080-320 At any time after receipt of a notice of an administrative sanction, or after receipt of an inspection or interview report from a licensure or complaint investigation which cites deficiencies or violations, the operator may request an administrative conference.
- 70
- 080-330 An administrative conference shall be scheduled as soon as possible and no later than ten (10) days from a request for such a meeting.
- 080-340 The purpose of an administrative conference is to review the sanction and/or the deficiencies and violations cited, and to provide information to the operator which can assist in achieving satisfactory compliance within required time limits.
- 080-350 The request for an administrative conference shall not extend the effective date for an administrative sanction or any previously established time limits, unless requested by the operator and granted by the Director. The conference may be scheduled after the effective date of an administrative sanction.

ATTACH.
7

Just the FAX



LAZERQUICK®
COPIES

Halsey Crossing
1427 N.E. 181st
Portland, OR 97230
(503) 669-1464 • FAX (503) 669-5325

DATE SENT: 6-20-95

TO: Mary Fassell FAX NO. 248-3656

COMPANY: Aging Services Div. PHONE NO. 248-3000

FROM: Quinn Roberts FAX NO. (503) 669-5325

COMPANY: LAZERQUICK® COPIES PHONE NO. 666-9121
(503) 669-1464

0 pages + COVER SHEET

**ATTACH.
8**

Comments Mary the info you FAX did not give the
details was disclosed, i. e. witnesses, attorney,
tape recording. Surely you have guidelines.
I had a copy of the A.S. rules D. Roberts



5200 S.W. Meadows Road, P.O. Box 1689, Lake Oswego, Oregon 97035-0889
(503) 620-0222 or WATS 1-800-452-8260, FAX: (503) 684-1366

February 7, 1996

Dianna J. Roberts
19390 NE Multnomah Ct.
Portland, OR 97230

Dear Ms. Roberts:

In response to our letter of January 17, 1996, Mary M. Fassell has sent us the enclosed materials in answer to your complaint.

Please review the enclosure and provide us with any additional information you wish to have us evaluate no later than February 21, 1996.

Thank you for your cooperation.

Very truly yours,

Chris L. Mullmann
Assistant Disciplinary Counsel
Extension 392

CLM:cw

Enclosure

cc: Mary M. Fassell, Esq.



MULTNOMAH COUNTY OREGON

RECEIVED

FEB 07 1996

DISCIPLINARY COUNSEL

AGING SERVICES DIVISION (503) 248-3646
ADULT CARE HOME PROGRAM (503) 248-3000
FAX: (503) 306-5722
421 SW 5TH, ROOM 405
PORTLAND, OR 97204-2221

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SHARRON KELLEY • DISTRICT 4 COMMISSIONER

February 6, 1996

Chris L. Mullmann
Oregon State Bar
P.O. Box 1689
Lake Oswego, Oregon 97035-0889

Dear Mr. Mullmann:

I am responding to your letter of January 17, 1996, requesting my response to the allegations made to you by Dianna Roberts.

I work for Multnomah County's Adult Care Home Program as the Sanctions Specialist. I am not working as an attorney in my position and I have made this very clear that I am not working as an attorney. The agency licenses and regulates foster homes for elderly and disabled adults in Multnomah County. As part of my job I decide and implement sanctions against licensed operators of adult care homes who violate the rules and standards for the operators. Dianna Roberts' license has been revoked and she is currently appealing the revocation of her license.

My responses to Dianna's allegations are as follows:

1. Allegation: I copied confidential records of private pay clients.

Response: The administrative rules for Multnomah County Adult Care Homes require licensed operators to keep records. These records include records of medications given, care plans of the clients, doctor's orders and progress notes. The administrative rules permit the staff of the Adult Care Home Program to have access to these records as a regulatory function of the Adult Care Home Program. The Adult Care Home Program has interpreted the administrative rules to permit copying of these records as well. The Adult Care Home Program keeps these copies confidential.

The Adult Care Home Program staff also has implied access to records under the statutes that require investigation of complaints of elder abuse. See ORS 410.650.

I copied the client records both as a regulatory function and as part of an abuse investigation.

I enclose a copy of our attorney's letter to Dianna's attorney explaining the situation.

2. Allegation: Dianna was not told she could bring an attorney to an administrative conference she had with our program manager, myself, and other staff.

Response: Dianna was told she could bring anyone she wanted to the conference. She came with the lobbyist for an operator's association.

3. Allegation: Copies of tapes of the administrative conference were incomplete and edited.

Response: The Adult Care Home Program did tape an administrative conference held with Dianna. The tape recorder was in the middle of the conference table. The tape ran out and I did not notice it for awhile. When I realized it had run out I turned it over and continued taping. Dianna was fully aware of the whole situation. The tape was not edited in any way.

4. Allegation: The conference brought up issues Dianna did not want to talk about.

Response: It is part of my job as well as other staff's to reprimand licensed operators about their violations of the rules and standards for Adult Care Homes. Dianna requested this conference after having one only a week before on the same issue. She was granted this conference because she implied that someone else wanted it, which we found out at the conference was not true. Therefore we discussed this problem at the conference. We then discussed her credibility and mentioned numerous other instances where she was less than honest with our staff and indicated to her the need to deal honestly and straight forwardly with our staff.

5. Allegation: I should be removed from my involvement in her case because a prior program manager reprimanded me about an issue in her case.

Response: This is a staffing issue and has no legal involvement.

I trust that this response is adequate for your needs. If you have any further questions feel free to call me at 248-3000, extension 2624.

Sincerely,

Mary M. Fassell

Mary M. Fassell, Sanctions Specialist
Multnomah County Adult Care Home Program



MULTNOMAH COUNTY OREGON

OFFICE OF COUNTY COUNSEL
1120 S.W. FIFTH AVENUE, SUITE 1530
P.O. BOX 849
PORTLAND, OREGON 97207-0849
(503) 248-3138
FAX 248-3377

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COUNTY COUNSEL
LAURANCE KRESSEL
CHIEF ASSISTANT
JOHN L. DUBAY
ASSISTANTS
J. MICHAEL DOYLE
SANDRA N. DUFFY
KATIE GAETJENS
GERALD H. ITHIN
STEVEN J. NEMIROV
HELLE RODE
MATTHEW O. RYAN
JACQUELINE A. WEBER

October 11, 1995

BY FAX AND REGULAR MAIL

Mark Cottle
Newton, Cottle and Westenhaver, P.C.
4000 Kruse Way Place, Bldg 1 Suite 265
Lake Oswego, OR 97035

RE: Department of Aging Services Access to Medical Records in
Abuse Complaint Investigations

Dear Mr. Cottle:

I received your letter regarding county access to the medical records of residents of adult care homes during abuse investigations. I believe your position is legally incorrect for the following reasons.

You rely almost exclusively on the physician-patient privilege as the basis for the provider denying adult care home program staff access to resident medical records in the possession of the care home provider. The simple answer is that the adult care home provider is not legally authorized to assert the privilege on behalf of the client. ORS 40.235 provides either that the individual holding the privilege, or the physician, on behalf of the patient, may assert the privilege. Communications between the doctor and others engaged in the diagnosis and treatment may remain protected by the privilege, as you assert (ORS 40.235 (1)(a)(C)), but that provision does not convert an adult care home provider into a physician for purposes of asserting the patient's privilege. Neither does the requirement that providers assist residents in asserting their rights (ORS 443.739) convert providers into residents or physicians.

The Department of Aging Services' (Department's) authority to review medical records derives from three sets of statutory obligations: its abuse reporting and investigation function (see ORS 410.610 et seq), its adult care home licensing responsibility

Mark Cottle
October 11, 1995
Page 2

(see ORS 443.780), and its protective services obligation (see ORS 410.020(3)(d), ORS 410.040(9) and ORS 410.070(2)(k). None of these obligations can be fulfilled without access to resident medical records on an as needed basis.

ORS 410.650, concerning abuse investigation reporting, requires that the investigation shall include "consultation with those individuals having knowledge of the facts of a particular case." As you know, the statutory definition of abuse includes physical injury "which appears to be at variance with the explanation given of the injury," and "neglect which leads to physical harm." ORS 410.610. To investigate either kind of abuse, the Department must have access to the individual's medical information.

Similarly, ORS 443.745 permits denial, suspension, revocation or conditions on a license if "there exists a threat to the health, safety or welfare of any resident", or "if there is reliable evidence of abuse [or] neglect." Medical evidence will be necessary for the Department to fulfill its statutory obligation under this licensing provision.

Finally, it is state policy that the state, through area agencies, shall "protect the older citizen and disabled citizen from physical and mental abuse." ORS 410.020(d). Appropriate protective services cannot be provided without an accurate assessment of abuse. Again, this assessment cannot be made without medical information in some situations.

Consequently, we repeat the demand that your client make available for investigation and copying all records in her possession concerning clients in her home either currently or over the past three years. Failure to do so will be considered a violation of MCAR 890-100-210 and MCAR 890-020-450(a), which require that an adult care home provider permit representatives of the Department to have access to resident records when conducting an investigation, and MCAR 890-020-260(a), which requires that a provider cooperate with investigations.

Continued refusal to cooperate will lead to the imposition of sanctions, potentially including suspension or revocation of your client's license. We can of course assure you and your client that any resident medical records that the Department does copy will not

Mark Cottle
October 11, 1995
Page 3

be redisclosed or used for any purpose not related to this investigation.

Very truly yours,

LAURENCE KRESSEL, COUNTY COUNSEL
FOR MULTNOMAH COUNTY, OREGON

By Katie Gaetjens
Katie Gaetjens
Assistant County Counsel

C: Jean DeMaster, Program Manager, Adult Care Home Program
Mary Fassell, Sanctions Specialist, Adult Care Home Program

F:\DATA\CO\INSHAW\DATA\EIGHTEEN\COTTLE-M.LET



5200 S.W. Meadows Road, P.O. Box 1689, Lake Oswego, Oregon 97035-0889
(503) 620-0222 or WATS 1-800-452-8260, FAX: (503) 684-1366

January 17, 1996

Mary M. Fassell, Esq.
#405
421 SW Fifth Avenue
Portland, OR 97204

Dear Ms. Fassell:

The Oregon State Bar has received the enclosed correspondence from Dianna J. Roberts, who has expressed concern about your conduct.

It is my responsibility to investigate these allegations to determine whether your conduct complies with the provisions of ORS Chapter 9 and the Code of Professional Responsibility. In order to permit me to make a fair and informed analysis of these allegations, I request your response to them on or before February 7, 1996, as required by BR 2.5(b)(1).

When I receive your response, I will send a copy of it to the complainant. I will, if appropriate, request that the complainant comment upon your response. All materials submitted in the course of this investigation are considered public records, and both parties will receive copies. If, after I receive all of the requested documentation, I feel that further consideration of the allegations is warranted, the matter will be submitted either to your Local Professional Responsibility Committee for investigation or to the State Professional Responsibility Board, with notice to you and the complainant. The Board ultimately will determine whether or how to proceed further. You and the complainant will be notified of the Board's decision.

I am confident that I will receive your full cooperation in this investigation. You should be aware, however, that failure to respond to these allegations constitutes a violation of DR 1-103(C). Should I not receive your response on or before the date specified above, I will refer this matter to your Local Professional Responsibility Committee for formal investigation. I am able to grant an extension of time to respond for good cause if requested in writing before the deadline.

Letter to Mary M. Fassell, Esq.
Page 2

Thank you in advance for your cooperation. I look forward to a fair and expeditious review of this matter.

Very truly yours,

Chris L. Mullmann
Assistant Disciplinary Counsel
Extension 392

CLM:cw

Enclosure

cc: Dianna J. Roberts
19390 N.E. Multnomah Ct.
Portland, OR 97230

*1-3/94

RECEIVED
JAN 03 1995
DISCIPLINARY COUNSEL

January 2, 1995

Oregon State Bar Association
5200 S.W. Meadow Rd.
Lake Oswego, OR 97035-0889

Dear Bar Association:

RE: MARY FASSELL - MEMBER OF THE BAR

Please reference the enclosed letter. As a member of the bar, I believe Mary is breaking her oath as a member of your Association, as well as laws of the State of Oregon. Her actions are wide spread in Multnomah County.

I would like to lodge a formal complaint by way of this letter and ask for a complete investigation of her actions.

Please advise me of results of your investigation.

Respectfully,

ROSEWOOD CARE, INC.



Dianna J. Roberts
19390 N.E. Multnomah Ct.
Portland, Oregon 97230
666-9121

Enclosure

December 28, 1995

RESTRICTED DELIVERY
CERTIFIED - RETURN RECEIPT

Jean DeMaster, Manager
Adult Care Home Program
421 S.W. 5th, 4th Floor
Portland, OR 97204

Dear Ms. DeMaster:

Re: CONTESTED ADMINISTRATIVE CONFERENCE -- Complaint # 43867 - 2-1-94

I would like to request a Contested Administrative Conference with regard to the subject complaint. I am aware this request will not be considered requested 'in a timely manner'; however, nothing in regard to this complaint has been done 'in a timely manner' by the Adult Foster Care Home Program staff as mandated by SB 549. In lieu of those circumstances, which you can hardly refute, I request leniency with regard to the date of this request. Also, I have been under legal advice, since the June 26th conference, not to write or contact you. On August 17, 1995, I entered into a contract to lease my home to a currently licensed provider. This application was submitted to your office on August 21, 1995. A member of YOUR staff immediately contacted my lessee and intimidated her into backing out of the lease. There is no doubt a legal term for this action by your staff -- perhaps, contractual interference.

Initially, I was agreeable to allowing by attorney to represent me and concentrate on taking care of my ladies; however, the following attorneys (3 in all - at great expense to me) have written letters to you in my behalf requesting conferences within the time specified in the MCAR's as follows:

Emily Simon	-	September 6, 1995 (Suspension)
Mark Cottle	-	September 18, 1995 (Suspension)
Mark Cottle	-	September 22, 1995 (Sanctions)
Mark Cottle	-	October 20, 1995 (Suspension)
Mark Cottle	-	October 31, 1995 (Fine)
James Niedermeyer	-	October 26, 1995 (Fine)
James Niedermeyer	-	October 26, 1995 (Suspension)
James Niedermeyer	-	November 17, 1995 (Suspension)

To date, not one of the above have been able to provide me with written confirmation that you even received these requests let alone read or responded to them. It has been noted that

Multnomah County has not been acting "in good faith". MARY FASSELL has copied confidential records of my private pay clients on two occasions -- a Violation of ORS 441.605.8. I have reviewed each of the 374 pages of my file as requested by my attorney and prepared by MARY FASSELL spanning eleven (11) years. It is far from being COMPLETE!

The reasons for this request are:

- 1) Issues were brought up at both the conferences held on June 22nd and June 26, 1995, which were unrelated to the complaint.
- 2) A report by Peggy Brewer, R.N. was read at the second conference, which was not true and was unrelated to the complaint.
- 3) Tom Glenn was unable to attend the first conference, even though he was sent a written invitation BY YOUR OFFICE; and yet you criticized me for requested a second conference so that he could give his testimony in my behalf "on the record".
- 4) Everything revolving around the first conference was disrupted due to a second conference being held downstairs with Mr. McConnell at 4:00 which allowed less than 1 hour for the original conference on June 22nd. The witnesses as well as myself were upset and more concerned with the immediate crisis at hand revolving around their mother's removal from my home than the conference agenda -- Complaint # 43867 - 2-1-94.
- 5) Issues were brought up at the conference on June 26th unrelated to the complaint, which I should have been advised about in advance in order for me to have my own attorney present. Your Sanctions Specialists, MARY FASSELL, is a licensed Oregon State Bar attorney, which served to represent the Adult Care Home Program and Aging Services Division, was present and tape recorded the conferences on both June 22nd and June 26th, 1995.
- 6) Copies of these taped conferences were requested by my attorney and provided to her by MARY FASSELL; however, these tapes were incomplete and highly edited. (A fact verifiable by 2 notarized affidavits in my possession from the 2 family members present.) I will need TRUE AND CERTIFIED COPIES of these tapes sent to me for my attorney to prepare for this Contested Administrative Conference. (Richard Nixon attempted to tamper with tapes and no longer has a job, which is exactly the position MARY FASSELL has placed herself, with one exception -- she still has a job.)

- 7) On the June 26th conference, you and MARY FASSELL engaged in a collusive effort to discredit, embarrass, and humiliate me by having prepared approximately 7 areas that you sited where you felt my credibility was questionable. I am the one who requested this conference for the sole purpose of getting Tom Glenn's testimony regarding his interview with my resident, who made the allegation that I borrowed money from her, "on the record" that she told him neither I nor anyone in my home had borrowed money from her. I felt this information from an impartial volunteer ombudsman critical to my case. I expected a 5 minute conference. Had I been informed that you had other issues to bring forth, I would have brought my attorney. I feel these issues were brought up at an inappropriate conference at my expense where the agenda was Complaint # 43867 and whether or not you were going to allow this complaint to be reopened for investigation as was my request -- NOT THE QUESTION OF MY CREDIBILITY!
- 8) NONE of the following evidence, which I presented during the conference, was considered on June 22nd :
- a. Five (5) written signed and notarized affidavits, one from each of my residents, stating that I, nor in my home had ever borrowed money from them.
 - b. Three (3) personal individual testimonies -- 2 family members and 1 volunteer state ombudsman.
 - c. The resident's physicians' signed opinion that the allegation was 'NOT TRUE'. (The resident who was the original 'source of the complaint'.
 - d. Two (2) pages of recent Progress Notes giving an indication that the resident is prone to fabricating stories, verified by the staff at the Volunteers of America Day Care Center that this resident attended two days a week.
 - e. Eight (8) pages of photocopied cancelled checks (20) written by me to Safeway totaling \$1,815.00 over a 3 month period (not counting the occasional trips to Costco for staples and bulk items not available at Safeway).

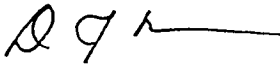
Jean, I do not buy my groceries in \$5, 10, 20, or 40 increments (a figure never determined -- the amount kept changing depending on which page of the report you were reading) with money borrowed from a Medicaid resident who only receives an allowance of \$75. a month! A report that reads SUBSTANTIATED in my public file, because YOU refused to even consider ANY of this overwhelming indisputable evidence in favor of standing behind two of YOUR staff members -- one who had taken no notes and had very little recollection of the investigation (understandable considering we are talking about a complaint filed in February, 1994) and a second who SUBSTANTIATED another item in this same complaint even though she was unable to contact the family members to confirm the complaint (and , in 1995 amended); BUT, using her better (?) judgement, elected to SUBSTANTIATE it anyway and took 6 months to complete her investigation! (a Violation of SB 549) There were also other inconsistencies in this investigator's report, which you refused to allow me to present at this conference.

In the best interest of receiving a fair and unbiased determination, MARY FASSELL should remove herself from involvement in any manner regarding my home due to a previous highly emotional conflict resulting in a severe reprimand from your predecessor, the former manager of the Adult Care Home Program and an apology to me. Jean, you may want to consider removing yourself from this situation as well, although I like you personally, I feel some prejudice may be lingering as a result of my involvement with the Portland/Multnomah Commission on Aging, which advises you in your current position.

Please advise.

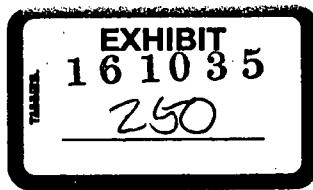
Respectfully,

ROSEWOOD CARE, INC.



Dianna J. Roberts
Owner/Manager

cc: Jim McConnell, Director
Carol Rex, Deputy Director
Carole Isaman, Licensing Agent
Annette Potts, Protective Services
Catherine Gaetjens, County Counsel
Cindy Peetz-Yochim, R.N.
Commissioner Stein
Commissioner Hansen
Commissioner Collier
Commissioner Kelly
Commissioner Saltzman
Cecilia Littleton
Thelma Skelton, PMCOA
Estill Deitz, PMCOA
Grover Simmons, Lobbyists
Cindy Hannum
Senator John Lim
Roger M. Auerbach, Administrator SDSD - State of Oregon
PUBLIC FILE



March 26, 1996

**Rock of Ages
Providers Assc.**

2320 N.E. 165th Dr.
Portland, Ore 97230
Phone/Fax: 261-1429



Senator John Lim
East Multnomah County
District 11
P.O. Box 1616
Gresham, OR 97030

Valerie Young
Director

Terry Lee
Ass. Director

Dear Senator Lim:

**RE: ADULT FOSTER CARE HOMES - MULTNOMAH COUNTY
MINUTES FROM HEARING OF FEBRUARY 27, 1996**

As per your request we are providing a copy of the transcribed minutes of the 'hearing' on Tuesday, February 27, 1996 requested by the R.O.A. Providers Association with Multnomah County Aging Services Division. As you will note from reading the minutes, Ms. Jean DeMaster, Manager of the Adult Care Home Program in Multnomah County, denied that she had agreed to a true 'hearing' -- only a meeting. So, for whatever, anyone wants to call it, officially; we did take testimony of grievances from the Providers in Multnomah County (both verbal and some written). This meeting lasted from 1:30 p.m. to 4:30 p.m.

We are providing two (2) advance draft copies of the minutes for you and Governor Kitzhaber due to the urgency of the situation. Although some errors in transcription have been detected; we will be have them corrected and provide the edited copies for you as soon as possible. We apologize for taking a full month to get these transcribed. However, they were done as a free service to our Association, and we were extremely grateful to be able to get them transcribed at all!

By way of this letter, the R.O.A. Providers Association request a complete investigation by the Governor of the Adult Care Home Program in Multnomah County.

Senator Lim, your genuine concern and assistance has been humbly appreciated!

Respectfully,

ROCK OF AGES PROVIDERS ASSOCIATION

TERRY LEE
ASSISTANT DIRECTOR

ROCK OF AGES PROVIDERS ASSOCIATION

2320 N.E. 165th. Drive

Portland, OR 97230

Ph: 261-1429

FAX 261-1429

DIRECTOR

VALERIE A. YOUNG

ASSISTANT DIRECTOR

TERRY LEE

TREASURER

PAT COX

SECRETARY

DIANNA J. ROBERTS

MINUTES OF HEARING

FEBRUARY 27, 1996

**MULTNOMAH COUNTY OREGON
EAST BRANCH OF AGING SERVICES BUILDING
2900 S. E. 122 Ave.
PORTLAND, OREGON**

**ADULT FOSTER CARE PROVIDERS OF MULTNOMAH COUNTY OREGON
ORGANIZED AND REQUESTED BY ROCK OF AGES PROVIDERS ASSOCIATION
TO HEAR TESTIMONY OF COMPLAINTS AND GRIEVANCES.**

AGAINST

**THE ADULT FOSTER CARE HOME PROGRAM OF AGING SERVICE DIVISION
OF
SENIOR AND DISABLED SERVICES DIVISION OF MULTNOMAH COUNTY
AND
STATE OF OREGON**

PART OF A SPECIAL REPORT

TO

SENATOR JOHN LIM AND GOVERNOR JOHN KITZHABER

***** A SPECIAL THANKS *****

TO

SUE HAIKKILA

**THE WRITE IDEA
P.O. BOX 252
CLACKAMAS, OREGON 97015**

WHO DONATED

**THE M-A-N-Y HOURS REQUIRED IN
THE TRANSCRIPTION OF THESE MINUTES IN HER, "SUPPORTIVE
OF EFFORTS TO PREVENT TYRANNY AND PROMOTE RIGHTFUL,
CONSTITUTIONAL FREEDOM."**

N. Roberts

THE WRITE IDEA

PO Box 252
Clackamas, Oregon 97015
(503) 631-7894 • Fax (503) 631-2172

March 20, 1996

Dianna Roberts
Rosewood Adult Foster Care Home
19390 NE Multnomah Ct
Portland, OR 97230

Dear Dianna:

It was a pleasure helping with the transcription (Pages 18 through 68) of your February 27, 1996 meeting with Jean DeMaster and company. A complete printout is enclosed, along with a 3-1/2" disk on which are two files: ROSEWOOD.NTS by Metro Word in WordPerfect for Windows and MTG22796.WP5 by myself in WordPerfect 5.0 for DOS.

In the interest of completing the transcription as quickly as possible, I took time only to spell check and not to do my usual thorough proofing. If you need to have corrections or changes made, please feel free to call and request them.

For the most part, the transcription is verbatim, except in those cases where it would only have added to confusion for the reader (for example, when several people were talking at once so that only a few words could be distinguished from any of them and they would not make sense, or when the speaker restated a phrase unnecessarily or meaninglessly). As you know, sometimes in transcription it is possible to hear words differently on the recording than what was actually recorded. I tried to minimize this by listening to difficult spots over and over, but I'm afraid you will have to correct any such errors from your own recollection or notes.

Dianna, I will be interested in your progress in obtaining fair treatment. It appears to be an important issue that has already affected many people's lives. I am always supportive of efforts to prevent tyranny and promote rightful, constitutional freedom.

Sincerely,



Sue Haikkila

Encl

INTRODUCTION

The people attending this *'hearing'* were notified by mail by the R.O.A. Providers Association from addresses provided by the Multnomah County Register of 'currently operating' foster care homes. Not all homes that are operating are included on this Registry. Anyone whose license has been revoked has been removed from the Registry, even though they are fully operating while appealing the revocation decision.

Approximately 200 homes were closed in 1995. We have requested by way of the Freedom of Information Act for a list of those homes, so that we may include them on our mailing list. We, also, want to be able to contact those home for the Task Force Study in progress by the R.O.A. Provides Association. After being advised the ROIA does not apply to local government, we have recruited the assistance of the Oregon's Third Congressional District Office to obtain this information. Information has also been requested from the Hearings Code Office necessary for our study. To date, we have received no cooperation from this office or Jim McConnell, Director, Aging Services Division of Multnomah County.

VY: Now, this is called a meeting. We requested an open hearing. So we've been denied that, and we are now told that this is a meeting. This is no different than any other meeting that Jean DeMasters holds every month and, and you cannot sit there and say that any of these testimonies you are going to hear today you haven't already heard.

JD: Sorry I disagree with what you are saying. This is a meeting with this provider association. I will write down all of the issues that people bring up and I will give you a written response to those issues if I can't answer them right away. If you disagree with what I say, I think you have the right to speak then with either Jim McConnell, who is the head of Aging Services or to the County Commissioners. I think the Commissioners told you you couldn't go to them before you come to Aging Services. But this is the time to tell Aging Services...

VY: So if we don't like the response from this meeting, then we can request a hearing with the MCC.

JD: If you don't like my response to this meeting, then go either to Jim McConnell or to the bureau, the County Commissioners, and they will do what they're going to do. I mean I can't say what they're going to do.

Dan DG: *GRIGORAS* Jean, with all due respect, do you know that whenfrom.....Columbia...March of last year, nothing was solved. Nothing. We....

VY: We know this doesn't work. That's why we requested an open hearing right off the bat.

TL: Which is the procedures we have to do for the chain of command. Here is what we went by the Multnomah County Commissioner rules. 890.205 - Publication of notice of public hearing. "A notice of a public hearing shall be published in the newspaper of general circulation within the Multnomah County community in the county courthouse at least ten days before the hearing. Notice of the public hearing shall also be given by mail to all parties who have submitted comments and the mailing to interested parties." Now, we sent you a fax, and it said we requested an open, public hearing. Now, that's right here, and that's what...

VY: You did not agree to it. In writing you said yes.

TL: Okay. Anyway, let's go ahead and go on to, you know, that's...

JD: Now wait a minute, Terry, those are the rules, that would be just great. Those are the rules if the County, or the County Commissioners proposed to change the rules that we all...

me or to Jim McConnell, and....

TL: We did. We did.

JD: I don't think anyone has seen the documents that you are waving around.

VY: Well, I'd love to pass them around.

JD: You can do that.

VY: Right here it states, with Heather Stewart's signature, Washington is the state in which she has worked....

JD: I'm not going to look at that now.

VY: You don't want to look at it?

JD: I do want to look at it, but....

?: Excuse me.

JD: If you want to file that information with Multnomah County, we will look at it.

VY: I did, and Multnomah County to check it out, and when I got the response back, they said, no we verified that it was not true.

?: I need to ask a question.

TL: Can we hold on just a second.

JD: We would like to know a name for our....

TL: This woman has asked for a....

Susan Keppi (SK): My name is Susan Keppi.

TL: Keppi. Can we hold on for just a second. We're holding....

VY: Over the phone this morning I couldn't remember how to spell Heather's other married name, Kennack, it's written at the bottom of one of those papers, and we couldn't remember how to spell it, but she said yes that she had included all three of those names, and looked her up on the computer and she had never worked in that state, which makes

her not qualified to be coming into our homes and on my allegation, I find that she doesn't even know what companzing (?) is.

JD: If you give me these documents, I will investigate.

VY: Those are my originals, so I will have to give you copies of those.

JD: I am sure you can get them copied here. Give me a copy, I will investigate it, but I can't off the top of my head say whether that's right or wrong.

SK VY: Can I ask a question now?

TL: Sure, sure.

SK: My name is Susan Keppi, and this is my first meeting here, and I was wondering, and this is not to be sarcastic because I have no information about anything, why are you questioning this woman, Heather.....

VY: Stewart. Because she had come into my home, threatened my employees, she wrote up allegations against me, for instance, like one was giving out a medication called Compazine, and I don't have the big word in front of me to pronounce it for you, but there's two words for it, a generic word for it, and it's a, for nausea, it's a suppository, and there was 2 milligrams wrote down, 5 and 10 milligrams. Well, one was a pill and one was a suppository. One of the allegations she wrote down to the effect that these were two different pills, none given and none charted. Okay. Well, no. There were none charted and none given because they were prn, only as needed. But she is making it out to be two different pills, none given and none charted. They are the same thing, but one was a suppository and one was a pill. I got a call from Disease Control because I was quarantined from my house. My license has been revoked because I was quarantined from my home for six weeks. Okay? Now, I'm supposed to be held responsible for what happens in my home. Come to find out that Heather Stewart told me, and I have two people witnesses, that Heather Stewart told me I couldn't go into my home, I find out from Disease Control of Multnomah County that I could have went into my home and watched, and oversaw my house.

JD: These issues are being scheduled for a hearing. You have a hearing scheduled for....

VY: Yeah. They're talking about in October. Where is my due process. And I have yet to get a hearing.

TL: Well, let's not go into that, let's not go into that yet.

VY: Is there any other employee, other than Heather Stewart?

JD: Yes. There are 15 other employees.

TL: No, nursing, RNs....

JD: No. Heather is the only nurse....

VY: Okay. That's my point. Okay?

SK: Now let me see if I understand this correctly, and then I'll leave you alone. They came into your home to investigate your home because your home was under *investigation*

VY: I was quarantined for six weeks, okay?

SK: But how did that happen?

VY: Because I was exposed to Hepatitis A. I never caught it, but because I was exposed to it, I was told by Heather Stewart, not by the Disease Control of Multnomah County, they told me I could go into my home, but I took Heather Stewart's word for it. I didn't call Disease Control because I figured Multnomah County Aging Services had control over me being a provider. That I had to do what they said, not the Disease Control people. Heather Stewart told me amongst two other people that I was not allowed to go into my home.

TL: The subject, her home was closed down, but she couldn't get anybody in there.

VY: I could get somebody in there, I got somebody in there, but Heather Stewart said that she could not work there because she may be implicated in the allegations, which she was never implicated in.

JD: This is why it goes to a hearing's officer....

VY: I'm going to get up and do my own testimony there...

JD: We don't believe that everything is clear, and we want a hearing's officer...

TL: Well, the bottom line is we have, the bottom line is conclusive that she lied on her application to the Oregon Nursing Board, and if she'll lie on an application to that, you know, anything she does for Aging Services is not reliable as far as I'm concerned. You know, that's a serious thing to be lying about. You know, and if she hasn't been acting as a nurse, and hasn't gotten the hourly years, the hours she needs in those years and there's

a lapse of 18 years, I mean where's her qualifications? You know, how many homes has she been responsible for shutting down, and at this point in the hearing, the ROA Association would like to, any foster home we would request an immediate dismissal of Heather Stewart at this point and time and every single sanction that has her signature be reversed and a public apology be given to all concerned. If she is capable of lying in such a serious matter, then surely anything else she states in reports must be questioned as to the truth and validity of her testimonies. And cleared.

VY: And we want all these cases reopened. Reopened and reinvestigated.

TL: Heather Stewart....

VY: If there were any allegations Heather Stewart has made against any foster home...in my instance, in my particular hearing I will prove many cases in my hearing in which she has lied and I have proof of it.

TL: Okay, go on. It is our intention to prove that not only have the provider's rights been violated by the MCAR Rules, which is the Multnomah County Administrative Rules, but those of the residents. It seems to be the view of Aging Services Division and that of Multnomah County Commissioner's office, that once you become an elder you no longer have the rights that other citizens have to enjoy as Americans. If in fact, if you have also, in fact you have also infringed your power over said guardians and family members, you use gestapo-type tactics and coercion to control any parties concerned as testimony will verify. Just because a person becomes old and a little senile, doesn't mean that he or she forfeits their God-given right to life and liberty. And by what authority to you guys come into our home and forcibly move a resident out. By what authority do you have. If that resident doesn't want to leave, by what authority can you tell me....

VY: ...I would like to make a statement before you answer that. Do you have a Laura Olsen employed at Aging Services?

JD:

VY: From Protective Services?

TL: Laura Olsen, or Mary Olsen....

VY: ...she said on TV and said your name, Jean.

JD: Okay.

VY: And she said that she was from Aging Services...

- TL: ...this is on national TV...
- VY: ...and she made a statement on a television that, and, that any cases of an elderly abuse, if that elderly person decides to stay in that abusive situation, there is nothing that your department can do about it. Now I asked Sharon Kelly on the spot at a meeting with two senators that exact question, and she said no, there isn't anything we can do about it. But every day you guys do something about it. You remove these...Heather Stewart came in and I have two witnesses to the fact that Heather Stewart came into my home, this is an example, okay, because I talked with you on the phone the day that, that the married couple in my home, I'm sure you remember this clearly, and said, what do I have to do to allow this married couple to stay in my home. You said the only way that I could keep them in my home is if I was not to charge them for services. Is that not correct?
- JD: That is correct, if your license has not been removed. Once your license has been removed...
- VY: But you have no jurisdiction over me. If my license is revoked, I am no longer a licensed home. Anybody can live with me without service payment. Is that not correct?
- JD: Prior to your license being revoked, if you had not charged anything to the residents, yes, that would be true. But once the residents were moved from your home, you cannot move them back into your home until this process is completed.
- VY: Okay. So my residents did not want to leave, and you forced them out. So you do force the residents out of the home when they chose to stay in that environment.
- JD: Yeah. But who was being abused?
- VY: Nobody.
- TL: Nobody. The residents were glued to their chairs....they came in and forced them out... with a police officer....
- VY: Okay. You, okay, you, let me finish, though, okay. You said that okay. And I said so, can I send the caseworker away. You said yes, go ahead. I sent the caseworker away. Okay? Not ten minutes later Heather Stewart comes through my door, _____ with my house, goes back to my married couple's room, and tells them in front of two family members that the doctor has cut off their medications as long as they stay in the house. Now I have a signed affidavit from the doctor stating that he never said that unless he wanted to set himself up to a lawsuit. Now Heather Stewart came in and lied to get that couple out of my house. So what gave her the right to remove that married couple from the home?

JD: If we come into a home and find that the residents are in danger, then we will start a risk intervention process to move the residents.

VY: A risk what, lying to them?

JD: If the residents' lives are in danger, this is an issue that needs to go to the hearing's officer, and it would not be appropriate for me to debate with Valerie the issues that are going to go to the hearing's officer next week. I have one side.....

VY:no, six months ago. I am still asking you what right, what authority did you guys have to move that nurse into my home....

TL: That's the bottom line. What, by what authority against those people, the residents, them being Americans, by what authority can you remove them from the house? Other than violating their Constitutional rights?

JD: When it has been determined that the residents are in imminent danger, what is the.....

VY: I didn't have a doctor's order.

?: Can you read off the definition of imminent danger?

VY: But still, if they chose, if right on national television, if they choose to stay in that environment; there's nothing you can do about it.

JD: Wait. Let's go back. The Lori Olsen that you are talking about...there is a Lori Olsen who works on a senior health line...for community action.

VY: Yeah, yes. Exactly.

?: I forgot to mention...

TL: No. Bottom line, even if...

VY: We want an answer here.

TL: ...even if, I mean even if the residents are being abused, for whatever reason, they choose to stay, I want to know by what authority and by what ORS you have the right to come in and physically remove them. I mean it would be the same thing if I was at home with my wife, right, and she was abusing me, or vice versa, and the police come, you know, they can't keep her from not coming back, they can't remove her against her will. What makes the difference for a senior citizen, just because they're old they lose their constitutional

rights?

VY: Apparently they weren't being abused, Jean, because they wanted to stay.

TL: Right, and a family member...

VY: ...they requested to buy my house in order to stay in their home. So obviously they weren't being abused. So by what authority did you have to remove that married couple from my home, which I might add the lady had a stroke the day she was forced out, by the time she got to the other foster home she couldn't walk because she had a stroke.

TL: ...and she hasn't walked since.

VY: ...and she hasn't walked since.

JD: My understanding that the residents in your home were in imminent danger..

VY: They weren't, Jean.

JD: I know, but I believe they were, and you believe they weren't, and the hearing's officer will decide. That is the point of a hearing's officer.

VY: You're still avoiding the question. By what right did you have to remove them even if they were in imminent danger, what right did you have to force them out of my home against their will...

TL: ...and against their families' will...

VY: ...you caused more danger than you're accusing me of.

JD: My understanding is that the families did...

VY: No. They did not. Heather came in and ordered them....

TL: Now hold it. Do you want us to read a letter from....

VY: Yeah, here, I want you to read a letter....

DG: Are we doing a class action or are we talking about, I'm sorry...

TL: We're trying to get her to.....

DG:(unintelligible)

TL: ...we're trying to get her to answer a question.

DG: ...problem, or trying to find....

TL: No, we're trying to get an answer from her directly. By what authority do they come in and remove the residents against the residents' will.

DG: Because they are assuming the driver's seat, we know that...

TL: But I am trying to get her to quote some kind of law or something.

Judy Fowler (JF): ^{6 JAN} Terry, ~~Valerie~~, she has answered your question. She thought they were in imminent danger. That was their feeling, and that is her answer. Can we please, we have spent a half an hour now on this.

TL: Okay, okay.

JF: Can we go individually now, individually...

DG: ...found that we are dealing with each and every problem so far....(unintelligible).

VY: Okay, but the point was is that the residents themselves did not feel that they were in imminent danger. They wanted to stay and they were forced to leave. Period.

DG: What do you mean....

TL: Okay, the next thing is that, uh, with firm this up, what's her name, Laura Olson, she said there are 800 complaints a month in just Multnomah County alone. And that one out of every three of those complaints, those 800, are complaints of abuse. Well, abuse is a criminal offense. So, if there are 800 complaints, and 1 out of every 3 of those is a criminal offense, we would like to have documentation of all these people who have been prosecuted for abuse, which is a misdemeanor, domestic violence...

JD: I do not know what Lori Olsen said, I will try and find out. It's hard for me to believe that she said that 800 complaints per month. It's easy for me to believe that...

VY: 800 complaints that 1 out of 3 are abuse. Not 800 a month...

JD: Lori Olsen is the person who does the senior help line. For her to say there are 800 calls a month to the senior help line....

TL: Just in Multnomah County....

JD: That's very reasonable. There are about 800 calls a month. Now, not all the calls are complaints.

VY: No, one out of every three are of abuse.

TL: On abuse.

JD: One out of every three calls to the senior help line?

TL: One out of 800. Well, it's on a tape, it's on a tape.

JD: If you show me that, I will be happy to find out or I can ask Lori if she knows. But my guess is it is 800 calls per month to the senior help line.

VY: And 1 out of every 3 of those 800 are on abuse.

JD: I doubt that...

VY: Well, she works the line, I guess she would know. So anyway, the question is, is....

TL: Yeah, at this point we would like to know of all those people that are prosecuted.

JD: ...senior help line calls, that complain about abuse, but not abuse (unintelligible)

TL: No this program was specifically specified for adult foster care in Multnomah County...

VY: ...on foster homes.

TL: On foster home care.

JD: Adult care. I mean...I'll check.

TL: We have it on tape. Um...

VY: So do you have any cases which are....

TL: ...I believe it's on the 9th at 9 o'clock in the morning.

JD: The 9th of what month?

TL: 9 o'clock in the morning.

JD: February 9?

TL: Okay. Just to touch a little more on the residents.....

VY: Yeah, she hasn't answered the question if there were cases.

TL: She don't know. Let's go on. Criminal cases.

VY: Abuse. Abuse is a criminal offense....

TL: How many cases do you prosecute a month, or do you know?

VY: Or do you prosecute them at all?

DG: ...(unintelligible)....going to be substantiated...

TL: Well, if there is, the ORS states that if there's been a criminal offense taken, the prosecuting attorney shall proceed forthwith. So if you have knowledge that a crime has been committed, then the district attorney has no choice but to prosecute.

DG:the allegation, I mean the file is going to be open to us and give the percentage of unsubstantiated, you know, _____, or what. I guess we will have to ask to have access to the file.

TL: Right. At this point in time, that's what we're after.

DG: ...(unintelligible)....facing your accuser or otherwise, want to know....meeting with....

VY: Right.

DG: ...(unintelligible)....files, and we ...(unintelligible)....whatever happens.

JD: What you're saying is that you don't have the right to face the person making the complaint. But that, the _____ of that is state law, and it should get addressed....

DG: ...(unintelligible)...

VY: But that's in direct violation of our Constitutional right. We have the right to face our accusers.

TL: We're trying to stay on track here...we're going to get to that issue. It's covered in here. I want to touch back on the residents' rights. This is the Multnomah County Commissioners' codes, and right here, the Bill of Rights for the residents, which covers the first, fourth, fifth, sixth, and 14th amendments in the Constitution, and it's also in here.

JF?: We have one more car, and it's a Washington plate, it's a beige four-door, parked right in the middle.

JD: The school buses can't get out, that's all.

JF: Nobody here with a Washington plate?

TL: Okay, in the MCC codes, the residents' Bill of Rights - now, these are your own rules and codes - "to guarantee that each resident is treated with respect, dignity, and each resident has the right not to be denied his or her constitutional legal rights, including but not limited to," and I will go down to, this is Section 1, I mean Paragraph 1c and d: "to have freedom of movement and to have freedom of privacy." By what you're doing, you've denied them both those areas.

VY: I want to touch on that issue. Is there a reason why the resident, like ____, the married couple that were in my home, did not have the right to request a hearing against their involuntary move.

TL: Nor were they notified that they had a right to that.

JD: It is my understanding that it was not an involuntary move. It is my understanding that at the point the residents moved, the families agreed, the families moved the residents. And we believe that the residents were...

VY: No, Heather moved the residents. She came in and moved their belongings out of the house.

JD: That is my personal belief. The events occurred last October. They occurred five months ago. I've not looked at this file, I'm not overfamiliar with it, but that's my recollection of it going back five months. And these are the issues that the hearings officer needs to resolve, not...

* VY: Had you resolved it when I asked you to at an administrative conference, we would never have gotten to this point.

JD: Because you disagreed on what the facts were and

* VY: You would not tell me what my allegations were for two months after you take my people out of the house. I'm entitled to an administrative conference within 10 days.

JD: Issues regarding your license go to the hearings officer.

TL: You need to stay off of this until... Okay, just because a person becomes old, that doesn't mean they lose their constitutional rights, and it's obvious that the residents, you know, we're making a statement here, and I agree it's a complaint, you know, that we have facts that this is happening. And regardless of whether you find imminent danger or not does not give you the

right to trample over their constitutional rights. They haven't been in a court of law and their rights taken away. By controlling where they can and cannot live is in direct violation of their rights. Even in the rules it states "residents have a right to a hearing before such termination of residence takes place." Now all this time, you guys, you don't give them the right of the hearing, you move people out, and you do it without the residents having a hearing of what they're supposed to do. In fact, there's not even any forms available anymore for the residents, you see.

JD: Any resident who requests a hearing is given a hearing.

TL: But they don't even know that right.

VY: You didn't give my married couple the opportunity to request a hearing. They were willing to buy my house to stay there. But you never gave them the right, or even let me know that they had a right to request a hearing. I managed to find one of those applications to request a hearing for an elderly from probably six years ago back in a file, but you guys no longer provide...

JD: Any piece of paper from a resident saying, or a phone call, and we provide a hearing.

VY: But you don't inform them of the right.

DR: Valerie, this is Dianna Roberts speaking again. I need to verify what Valerie is saying. In November they revoked my license, and my people are ordered out of my house within two weeks. As of this weekend, I haven't had a hearing or a conference. I've had three attorneys request about eight times. I have not seen, DeMaster has not yet given me a hearing or an or a conference.

JD: Any time your attorneys will agree on a date for this hearing, we will set it up. We are willing to set it up the minute your attorneys...

TL: But I don't thin you heard what she said. You've already told her she has to move the people out and you've given her a date.

JD: I don't believe we've told you you have to move the people out.

DR: My gentleman is right here. His mother is ordered out by March 11.

TL: Can you state your name, sir?

Darryl Steiner.

TL: And your resident's name?

DS: Pauline St. Germaine.

TL: And you've seen the letter that states that she has to move?

DS: That letter...

JD: May I ask a question? Does the letter say that the Medicaid contract is no longer in effect after March 10, but the residents can stay? Or does it say the residents must move?

DS: No, the residents can stay...costs.

JD: Right, it's the Medicaid contract that is no longer in force. I think that's the letter you're referring to.

?: But why would it be no longer in force?

VY: So you're punishing the resident by cutting off their funds from Medicaid, to get them out?

JD: In this case, this license has been revoked.

DG?: They had no choice...

JD: The hearing will be set up the minute that Dianna's attorneys...

VY: But it's still violating their rights. I understand that they're doing that, but we're going to change that because it isn't right.

DR: I have a scheduled hearing March 14th.

JD: First the license is revoked. If anybody wants to...

DS?: That makes you guilty, and then you have the hearing to find out - after they lose their house, after they lose everything they've got, after they lose their families, then you have a hearing.

TL: Good point.

VY: That's the way it works.

JD: As soon as you would like to have a hearing, we will schedule that hearing.

VY: We've asked for a hearing, Jean...

JD: You have a hearing scheduled...

VY: No!

TL: How long has it been, though, since her allegation? Almost six months, six months now.

VY: And I'm in the process of losing everything. Do you think that by holding me off for six months that I'll lose everything, I won't need my license anymore? I don't think so. I told you I wasn't going to put my tail between my legs and that you were going to regret that you ever heard my name, Jean, and I told you that on the phone. I'm not going to be one of the 90 percent who just put my tail between my legs and say, "Oh well, I've lost," because I'm going to take, if I have to sell everything I have and let my house go, that's fine. I'll put

everything on the line to fight you and the system. Because it's wrong and everybody is getting hurt over it.

Audience: Right.

VY: Amen?

Applause.

VY: And I will sell my home, and I will do whatever it takes to do it.

TL: You know, last night I was going through these MCC rules, and I find it fascinating that out of 10 pages of rules from the MCC, you have made 95 pages of Multnomah County administrative rules. Let's look at the word "mandate."

VY: It says you can mandate the MCC rules.

TL: Mandate means an authoritative order or command, law, a judicial order ordered by a higher court to a lower one. Mandate. In other words, not to manipulate, add to, or take away. It means from a higher court to hand down to a lower court to enforce the rules, not to change them.

VY: So we should not have to apply to anything more than what these are. You guys have twisted them and changed them to whatever suits you so you can close us down that much sooner for these nonprofit state-funded homes that are going up.

__: ...compliance also? And things are added to that, knowing that they never said anything to you when you come into...compliance already added two things on there, after?

TL: Jean, you stated to me in a phone conversation that...

DR: Excuse me, Terry, the people speaking, that was Sandy McCoog, right?

TL: Jean, I talked to you in a phone conversation about these meetings holding about proposed rules coming, you know, and I asked you, you know, "Well, how does anybody know that these rules so they can go in there and oppose them or favor them?" And you said that all providers are sent out notification that these meetings are being held and where and what time. I want to ask all the providers in here, has any provider in here ever received a letter from Aging Services of a meeting taking place and where it was taking place? Anybody, raise your hand.

__: On what?

TL: One person, but you know what, what county are you out of? Washington County. Is anybody in Multnomah County?

VY: No, and there's not even a meeting being held in Multnomah County because we take up the majority. If Multnomah County alone was to stand up and say, "We are not going to accept this and we're not going to take it," we would outdo all the other counties and other states

combined. That's why there's no meetings in Multnomah County and that Multnomah County is not aware of these.

JD: Could I respond to that? Will you let me respond to it?

VY: Mm-hm.

JD: Okay. No notices were mailed out in Multnomah County because we are exempt from the state rules. The state exempts Multnomah County and Clackamas County and so they mailed out the notices announcing the statewide meetings to providers except for Multnomah County and Clackamas County. In the last newsletter, we published the dates of the hearings that there four hearings that were held, and a number of informal hearings. We put them in the last newsletter so that if people wanted to attend the state hearings, they could. We have put in newsletter after newsletter: watch for the state hearings, call the toll-free number to get the information. Now, so the state hearings were last week. In Multnomah County we will wait for the state rules to become finalized, and we will then have hearings on the Multnomah County rules. When we have the hearings on the Multnomah County rules, all of you will get notices that there are going to be hearings on the Multnomah County rules. And we will follow the process that Terry described in that 8.90.205 that says there will be a number of notices in the newspaper, it'll be published so that everyone will know when it is. You'll have two weeks' notice ahead of when the hearings are going to be, and we will hold them in various locations and at various times throughout Multnomah County. When the Multnomah County rules change, you will get notified. What you didn't notice on, unless you look at the newsletter, was the state rule changes.

VY: Okay, but doesn't Multnomah County...state rules?

PG_: Excuse me, may I have an interjection here?

VY: Yes.

DG_: Why should we have to have Multnomah County rules and Clackamas County rules? We should have state rules and state rules alone. They say cut the fat in our democratic society, but we're not spending so much money doing double, double, double...exactly what is happening.

Applause.

DG: What we're talking here is reverse engineering, because once the state rules are in place, we cannot change that.

TL: Right.

JD: And that's why we gave notice.

DG: According to what Terry say, your rules have to be the same or higher. We know they're going to be higher. Now, it's not going to be easy, but if everybody has good intentions toward the elderly and toward the legislature, it will be wise to keep ourselves informed and try to take the state level and at that point to push for appeals because. Well, no, everything is

happening right now with a lot of meetings with senators and representatives because of the elections. Don't get blind...after the elections.

TL: My goal is to get the federal government involved because of our constitutional rights.

DG: It would be better to push for a deal which say forget about Multnomah and Clackamas and... with the state...

VY: Exactly, that's what we're looking for.

DG: Sorry, it is nothing personal against you, but she said before it is the system. Yes, it is the system. They take too much, a long, time to fix something or...and we have to change it.

VY: Lynn Jones?

LJ: My name is Lynn Jones and, Jean, I'm not from this county, but I do want to point out I went to several hearings this last week. And we heard from all over the state that people did not receive notices on the public hearings, nor did they receive the rules. And what we've heard over and over throughout the state is that you guys are not required to (1) even notify us, (2) to even give us the revisions, that you're doing it out of the kindness of your heart. And not only that, but you do have to meet minimums of the state, both you and Clackamas County. Therefore you should, along with the rest of the people in this state, if you're a licensed provider, you should receive all notices and a copy of that revision. It affects you guys here just as much as it does the rest of the state because you have to meet at minimum. And there are a lot of things in there that will close you down.

VY: That's right. That's the whole idea. We will get to that issue.

JD: In the newsletter, over and over again, all of you didn't get the copies, but you're saying is not true in Multnomah County. In Multnomah County the county law says we must notify you, we are obligated to notify you of... (end of Side 1)

(Side 2:)

VY: ...those would affect them if they're passed.

JD: ...give notice to every provider saying the state rules were changing and to call the state if you wanted a copy of them and...

LJ: We heard the same thing, that they're not required to send notices. Therefore, we need to go back to the legislature and say that we require them to send us all notices. Because it was amended back in March of '95 and half of the providers throughout the state don't even know it was amended. The system is wrong and we do need to change it.

DG: ...the last 30 years and nobody....

VY?: I don't think that we should have to apply it anymore than the state rules, period.

of worms. We should have one set of rules because it takes the same things to take care of a patient in Salem or Rogue River as it does in Portland, Oregon.

TL: Everybody has equal right. You can't do something over here and over here differently. And that's what's happening here, I see that right now.

DR: I was in Salem testifying on trying to get uniform state rules, you know, testifying for them. Jim McCollum was down there five minutes before me, trying to keep them the way they are.
McConnell, Director ASD,

TL: One of the things I want to ask - I can't get any clear answers from anybody, including Grover Simmons. I want to know by what authority Aging Services has to impose fines, a hearings officer. By what authority and what law, what law passed? I mean, as far as I know, the only person that can hand down a fine is a magistrate, is a judge. That's the only person who can impose a jail sentence or a fine.

_: Multnomah County, the same rules that you have here.

TL: You know what they sent me? It doesn't say by what authority. I'm not going to take an MCR as authority.

JD: ...was amended in 1992 to allow for there to be fines.

JE: ...where it is. "Any person who violates a provision of this chapter or the rules promulgated hereunder may be punished by a fine in the amount fixed by the director, not to exceed \$1,000 for any violation."

TL: Okay now hold on, by what authority or law

JF: Judy Fowler is a licensing staff person of the adult care home program. Judy Fowler is not an attorney.

VY: She's not acting as an attorney.

JD: No, she's not an attorney.

TL: What I want to know is, you got that there, by what authority did they get that, by what bill or. You're reading that out of what?

JE: This the Multnomah County code.

TL: Okay, by what authority does Multnomah County code get it? There's got to be a billed passed or something that imposed fines because the Oregon rights statutes -

_: Did somebody just make it up?

(unintelligible)

JD: Let me give you an example. Years ago at the Oregon State Penitentiary, in disciplinary write-ups the hearings officer, they got together in the penitentiary and deemed that well, we're

going to start fining these guys if they get in a fight, it's \$100. Okay, this started happening. Well, it was fought and the federal government came in and found that you cannot do this. The only person that can impose a fine is the magistrate, a judge, who is appointed to that. And every person they had fined there in the penitentiary, their money had to be reimbursed. It was overturned. This is case law, it can be shepherdized and found out. So I want to know by what bill, and if you can't tell me, then who can?

VY: Then we're going to file and we need to return the money back to the people.

TL: There's got to be something that was voted to the people for something like this to happen. It can't be just somebody.

JD: We can found out how the county gets the authority to - the county told the adult care home program, we had the authority to have fines. So now we'll go find out what gave the county that authority.

VY: What bill was passed that gave you that authority.

TL: Now the other issue is when these fines are imposed, why do not your services inform the people that they have a right to appeal before they pay the fine? They have a right to appeal that decision, but you guys are not informing.

VY: In most cases, they belief that if they don't pay the fine, they're going to lose their license. That's what we've been hearing on the phone.

DG: There should be a warning...

VY: Not in all cases it hasn't been.

DG: I know, but it should be...

JD: It's printed on the fine schedule. Your right for what you should do if you don't agree is printed right there on the fine schedule, right where you sign.

DR: We have Linda Shelton here in the audience, and she's received a letter saying they will not renew her license until she pays her fine.

JD: That's correct.

TL: She has the right to appeal. I don't see where you can enforce that until she has exhausted her remedies in appeal.

(Unintelligible)

—: My name is Linda Shelton. The particular fine in question involved a resident manager that I had hired that worked for me for five years. The girl was good, she did her work, she...paperwork. She got a warning because she did not chart her medication. Then I moved to another residence and I took her with me and she was the best employee I had. And I gave her her medication sheet...get these filled out. She did not do so. At this particular point in

JD: Because it's the operator's responsibility to ensure that the rules are followed and that the residents are safe.

VY: What happens when that person is quarantined and so they can no longer come into their home? Then who now becomes responsible.

JD: Again, there are issues regarding your home. I want to wait until the hearings officer has a chance to...

DG: ...once the employee is fired, everything has to be...

JD: Right, but if that were the case, the employees would make mistakes instead of...and the operator would say, "Well, I don't have any responsibility now." They hire another employee, make another mistake, fire that employee, they don't have any responsibility now.

DG: ...not wise to do that...

LS: I want to say something. If I am out of the house, I am at a meeting that you require me to go to for education or I am out getting medication for my patients, what control do I have if that patient is putting her little initials down? I don't have a camera in my house so that I can watch their every movement. I am responsible, but up to a certain degree, unless I am in there standing over this person, then there's things that are not going to be done. And these people think it's a joke. They go from home to home to home. They don't care that they get fired, there's so many jobs out there it means nothing to them.

__: I think the responsibility should be laid on the person who is responsible at the time.

JD: Yes, the responsibility is on the operator.

__: ...the manager, so she should have the responsibility for caring for those people, not the operator...

VY: Maybe they would do a better job if there was a little more pressure on them instead of thinking, "Oh, I won't get in trouble for it, let the operator worry about it."

JD: ...supervisors, all employees that are in the home.

TL: For the record, what's being done here is unconstitutional. It's not right, it's unconstitutional what's being done here, and that's the issue.

DG: It's so easy to fight against us because we don't have the time and we don't have the money to fight the state.

LS: Could I say one last thing before I go? On this \$1,500 I have to pay for this woman not initialing, do I take it out of my lease payment, or should I take it out of my grocery money for my elderly people this month? I operate on a budget. This wasn't even something I did. Why should my business or my people suffer?

TL: On your fine thing, does it say there you have the right to appeal?

- LS: It does not, it says I will not be relicensed unless I pay the...
- TL: That's not the way it works, it needs to be on the fine itself, not on the fine schedule.
- LS: I believe it said on the original fine. However, in discussing this with everybody, I have got nothing but the answer that I have to pay and that's the end of the story. So it does no good to go in and ask for an appeal or a hearing or whatever because they've already made the decision. It would be a waste of my time to go in.
- JF?: This woman worked for you for five years and she didn't initial that whole time?
- LS: No, she did her medications most of the time. She hated paperwork, though, and this was the second time she got caught not initialing her medications. She always gave her medications. They were passed out breakfast, lunch, dinner, bedtime, very routine.
- JF?: So you were aware of the fact that she wasn't initialing?
- LS: I was aware of it, she got the warning, and I told her to never let it happen again or you'll lose your job. She let it happen, she lost her job. But I got the fine, and she got help finding another job. She might be working in one of your homes right now. You don't know.
- TL: As far as the due process of law, in your own rules, well let's go to the MCC. On Page 7, 63.
- VY: Oh, by the way, who has those papers from Heather Stuart? I don't want those to get lost anywhere, those are very important.
- TL: This is from MCC 8.90.090, Appeals and Hearings Review. "Upon receipt of a timely request for a hearing, the director shall designate and promptly notify the hearings officer, who shall set a time and place for the hearing. ~~The hearing shall not be scheduled more than 30 days from the time of the request for the hearing.~~ Now, I don't think there's probably anybody in here that has gotten it within 30 days. Here's your own rule, and you take it beyond 30 days. Why?
- VY: I'm going on six months.
- JD: The only time we take it beyond 30 days is if the hearings officer doesn't have any available times, or the attorneys or the parties can't come to an agreement on when they want a hearing.
- TL: No, it doesn't matter whether the hearings officer has enough time or not, then that's on you to hire another hearings officer. The rule states that you have 30 days, and this rule is being violated all the time.
- VY: What happens in a court of law, Terry, when a speedy trial does not happen?
- TL: Well, the rights for a fast and speedy trial are part of their right. When the due process of law is not adhered to, then you can go in and be charged with murder, and part of the speedy trial is being arraigned to 72 hours. Now you can go in and you could confess to the murder, have a written confession, but you got arrested on a Friday, you go into court on Tuesday to be

from the lady at the hearing desk said that Mary Fascile came in, there was two openings for me, and Mary Fascile went in and said, "No, I'm busy on those two days." And then the other one was for the 16th of February and she denied that one, too. So I got kicked up to the 23rd when those days were open.

DR: I've got a comment. I was at the hearings officer's desk last Friday. I said, "What are the criteria for me asking for a set-over?" And she said it, Mary Fascile.

VY: Who represents Multnomah County in the hearings?

JD: In the hearings? Mary Fascile represents the adult care home program, yeah, under Multnomah County.

VY: So she's a sanctioned specialist when she's in our homes, and she's an attorney when she's standing there at the table?

JD: No.

VY: She's standing there as my prosecuting attorney.

JD: Mary ~~Fascile~~ goes to the hearings as the sanctioned specialist.

VY: But she's an attorney.

JD: But she's not practicing as an attorney. She is an employee of Multnomah County...

VY: She's representing Multnomah County, right?

JD: Yes, she is representing Multnomah County as a sanctioned specialist. She is not practicing as an attorney.

VY: How can she come into my home, and how can she talk to me and befriend me over the phone when she's going to stand there in the hearing and prosecute me?

_: She's licensed at the bar.

VY: She might as well go into my attorney's office and look in my file if she's going to be allowed to come into my home, go through my papers, go through my personal effects and then stand there in the hearings room?

DG: Are you saying it's a conflict of interest?

VY: Yes. I have a complaint in the state bar against Mary Fascile, but she's stands up there, she says she's a sanctioned specialist, but she's actually the attorney for the county. And she might as well walk in and look at my file...because she comes into my home, she takes copies of my residents' files without their permission. You know, those are confidential files, and I want to know by what authority you have to come in and copy files out of a private-paying resident file without their written consent.

TL: I'd like to hear that.

VY: That's a violation of their privacy.

TL: What right does Aging Services have to come in to a private-paying person in a home and get into their confidential files without written consent from the guardians of the resident?

JD: The administrative rules allow Multnomah County to look in the files of all the residents of your home.

TL: Okay, then, for the record, then that is a direct violation of the constitutional rights of the residents.

DG: It's about time we set up our own rules and push for beyond the Senate and House rules.

VY: We're doing a special report to the governor on this one.

DG: The governor is not going to do anything. The governor is supported by some other people which are supposed to be elected.

VY: If we can get their help because they want to stand by us and look real ^{god} great, we'll take all the help we can get.

TL: That's why we need to get the care providers' attention and let them know that if we unite together, we can put a stop to this crap. Until we all get together and stand together, ain't nothing going to happen.

DG: I understand the number of votes -

JD: The providers are free to have any union or association that they want.

DG: Multnomah County doesn't have anything to oppose what is our enterprise. Don't call it business because everybody wants to call it a business, it's wrong, it's a family enterprise. They can...absolutely not.

JD?: That's right.

TL: Here in your own Multnomah County administrative rules concerning complaint investigations, in your own rules, this is not MCC: "The department will investigate and act on complaints according to the following guidelines. Complaints alleging injury, abuse, or neglect will be given top priority. All investigations will be completed within 60 days." How come hers was six months? How come hers was four months? Unless - the only other reason you can do that - unless there is a concurrent criminal investigation that requires additional time.

VY: And there's another issue I want to touch is the fact that I - I wasn't kept confidential as I made allegations against Metro on imminent danger, and I have two tapes and documents and proof of the danger, an imminent danger - I told a licensing lady, Carol Eisman [sp?], I told _____. Now I have a letter from Metro stating that they're going to sue me for the allegations. I'd like to know - and you were supposed to act within two hours on that allegation. Today, I

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talked, and I have a tape recorded conversation with Linda telling me that everybody and her mother has called to tell her about the investigation and that she was given today and that Sam ___ has time to clean up the house and the ___ and everything. There was not even an investigation done for two days, and I have the residential manager's statement over the phone on that issue. And I got a letter for a lawsuit against me because you guys disclosed who where the allegations came from.

TL: And you just got through saying that we don't have a right to know who those people are coming from, to protect them. Well, here, go ahead and read the letter. She's the one that made the allegations.

VY: Okay. "Dear Valerie, we speak to our attorney regarding false allegations against our faculty at Killingsworth. Misrepresentation of an impersonation of an Oregon State ombudsman in a phone call made to a resident family member physician's harassment of the resident manager"? We are expecting to receive from you in no less than 10 days a formal written apology and a retraction of your allegations against Metro." Those two, to receive the apology and retraction are the families involved, Multnomah County, the physician, and Metro. "If this is not received within the specific time, our attorney is prepared to file a lawsuit of harassment and defamation of character against you." Now I would like to know who in your department told Metro that I called in those allegations.

JD: I don't believe anybody in the adult care home program...

VY: Well then, how in the world would she know who made the allegations against her home?

JD: I don't know how she knew, I don't know that she knew.

VY: They only told two people, Carol Eisman and the ombudsman.

JD: Right, and Carol informed the complaint specialist in the adult care home program. The complaint specialist acted on this within two hours. I have asked if either of those people disclosed the information, and the answer is no.

VY: Oh, well then who told her? I don't know.

JD: I don't know...

VY: And then they were found to be unsubstantiated when I have proof of the allegations? Why is that? Because these are nonprofit state-funded homes? Is that why they were unsubstantiated? The woman has a black eye.

(unintelligible)

TL: Probably what you're not seeing here is that the reason why this went this way, and the homes were not done anything to, is because these are the state-funded homes.

VY: That I made the allegations against.

JD: All your homes are state-funded if you get Medicaid dollars. Medicaid gets state funding. All

your homes are state-funded.

D.G. VY: Right, but you've got to save up extra funds to get them going and built and up and running.

~~GD~~: Those are loans which the nonprofit organizations are benefiting from, and I have the opening video and all the names...nothing to do with it. The only thing, Multnomah County has employees which are supporting them with inside information and they're populating those homes. I have the...and the director of the Aging Division states that on the video. They said we are populating these homes and we're going to do it again because they are providing...Now my question is because I am looking for sometime, I don't know have enough time to get into this, but I want to see the records. If they could operate on lower budgets on us and if they could provide better service.

JD: Multnomah County provides help with Medicaid placements to a variety of homes, hundreds of homes, including this one if they have Medicaid placements. But other than making the placements, which is what Cheryl's job is to make placements, that's what she did.

D.G. ~~GD~~: I got it on the video.

VY: I would like a Medicaid service payment sheet.

JD: Well, then, you should call the state.

VY: I already have. No, I want one from you guys.

JD: The county doesn't deal with payments.

VY: You come out and evaluate our residents for their attorneys.

JD: That's correct. But the adult care home program licenses, but we do not deal with payments.

D.G. ~~GD~~: Whatever the above issue goes back to Salem...

TL: I was going to touch on the state-funded homes here. I just wanted to get back on the appeal rights, you stated to me on the phone that it's not on you guys to advise the home operators of their right to appeal in any situation, right?

JD: No.

TL: It's on the hearings officer, right?

JD: I said once it's in the hearings process, if there is any obligation, what happens at the next step, I said I believe that with the hearings officer, once you're in the hearings process.

TL: Okay, and he's not telling these people they have a right to appeal it to a higher court on a fine or order.

JD: Okay, but what I also told you is it's in the rules, and every provider has an obligation to know what's in the rules.

TL: No, it does not state that they have the right to appeal to a higher court.

JD: Whatever right is in the -

TL: It says, appeal to the director. It doesn't say nothing about appealing to the court of law.

JD: We'll check.

TL: My question is, you're saying it's the responsibility of the hearings officer to give these people notification.

JD: No, I said it's not the responsibility of the adult care home program, once we enter the hearings process.

TL: Right, but you are the ones causing this action to happen, so you should be responsible for going all the way with it. You should still be -

JD: ...all that way because then it's a process where we're saying this happened and the provider is saying that happened, and we're turning it over to an impartial person. At that point that person decides the result and what the next steps are.

TL: Okay, what I'm saying is, what you more or less said to me that once it gets to the hearings stage, it's up to the hearings officer to provide information.

JD: I said the hearings officer could do that, but it's not the job of the adult care home program once we're in the hearings stage.

TL: So in other words, it's just kind of left up in the air.

DG: You have to know the process of law?

TL: No, if you go into a court of law, then right at that point when you're found guilty, the prosecuting attorney and the judge specifically tell you, "Now you have the right to appeal this."

DG: ...the most important part is being judged by the third one, not impartial.

TL: The judge is an impartial, and he's the one that notifies you.

DG: ...I don't agree with this, believe me, but this is something you have to know, because they don't with you, you don't with them, right?

TL: No, she's not disagreeing with me.

DG: ...they can't advise you, like you're not supposed to tell them your next steps...

TL: No, that's not the way it works. This is the way they do it, right, but what I'm trying to get a straight answer from her, you know, who is responsible for advising those people of their

rights?

JD: Can we just read in the rules? Let's just read from the rule and see what it says.

JF: It says, Review by the Board of Health Commission. Any party may file a written exception to the hearing officer's order with the clerk at the board of county commissioners within 20 days from the date of the order. And then there's another half a page that follows up on that.

TL: Where's that at?

JF: 8900904__.

TL: Thank you.

(unintelligible)

JD: It is in the rules.

TL: Okay, thank you. I couldn't find it anywhere. I guess I'll turn this over to you, Valerie.

VY: Sherry Wilson has apparently been working on some state-funded homes, or nonprofit homes, that she has brought up. Now she stressed what a need there is for these homes. With a 30 to 40 percent vacancy rate, why is there a need for these homes? And if there's a 30 to 40 percent vacancy rate, where are these people going to come from?

JD: Sherry Wilson is an employee of Aging Services and she works for the community access part of Aging Services. The Commission on Aging says that there is a need for homes for specialized care, particularly Alzheimer's care, care of people with diabetes, specialized care in particular neighborhoods. So the Portland Metropolitan Commission on Aging says get more homes that have these specialized care needs that can respond to patients with specialized care needs and in particular neighborhoods. So the elderly commission said to Aging Services, get these homes, and Sherry Wilson's job is to develop homes for those particular needs.

VY: Okay, well...

DG: She cannot get homes in particular areas because those homes...getting them wherever they are.

VY: Okay, well I have proof that these two homes - well, Sherry Wilson told me they were the only two in existence - but these two homes on Killingsworth, which are what Sherry Wilson was there at the opening days, this was her thing, okay? So the residents that are in that home right now, this is supposed to be for special needs, right? The people, there's one room and board lady in there, there are no special needs that probably any of us in this room have probably provided for and can provide for, okay? One lady came from a particular - well, I already know because I have proof of it, okay?

JD: Yes, but you and I disagree on this issue.

VY: Okay, well the people in that home are not any more special needs than a lot of us care for. I specialize in Alzheimer's and dementia, okay? I know that one woman was pulled from, well

I won't say whose name because I don't have her permission, but from one lady who was a room and board for \$800 a month who is now in Carol Wiebold's home at \$1,556. And she can do almost every ADL.

← Killsworth St
Homes
State Funded

JD: I believe she is a special needs resident.

VY: Well, you believe that she is, but I have proof that she isn't.

(unintelligible)

__: What's the lady's diagnosis that you're talking about?

VY: As far as I know, she's room and board and she has a little dementia. She needs a little help, but she can do almost all of her ADLs.

TL: The state came in and broke the contract, pulled her out.

VY: They didn't take the lady's license, they broke the state contract with her.

JD: Remember that two years ago, Sherry came to the providers and said, who wants to form a nonprofit corporation and work on this project?

VY: She came to the providers?

JD: Would you let me finish?

VY: Well, I want to clarify that. You said she came to the providers.

JD: She came to the providers and said, who wants to do this? The homes are not owned by Metro. The homes are owned by Northwest Housing Alternatives, which is a nonprofit housing developer. They own the homes. She said, who wants to lease homes from this other organization and develop for special needs housing?

DG: They don't lease the homes. They own the homes...how many they gonna turn or they gonna donate it. And at retirement, you take the price on that ___ when you retire from the home plus 6 or 7 percent, you know that?

JD: These homes are owned by Northwest Housing Alternatives, and I don't think -

VY: But I want to know why they're getting paid more than, I've never been paid by state \$1,556 for a totally bedridden person. So why do state-funded homes being paid more?

JD: ...negotiating the rates with the state based on special needs. We don't...

VY: How much more special needs can you get than hospice, somebody who's dying who has a colostomy bag and a feeding tube?

DG: ...unfair competition, it's true.

Portland-Mult.
Comm.
on
Aging

AC: My name is Alan Carpenter, and we operate foster care homes. I came to this meeting because I just thought it was an open meeting to speak with __. I've got to start out in saying that I've never had a problem with the adult care home program. Their office has always treated us fair, and whenever there's a problem, they're always able to resolve it. So.

VY: Are you also in the newsletter that goes out every month?

AC: Every month, yes. I get the newsletter.

VY: No, you're in the newsletter. Your name is in the newsletter.

AC: I was a secretary, and still a secretary, of the Adult Care Providers of Oregon, ACPO Association.

VY: So you work closely with Aging Services.

AC: I think I work closer with Costco than I do with Aging Services...You call up Shelly Himmel and say, "We're having a meeting," and she puts it in the newspaper. That's as easy as it is.

DG: I have to say I have one problem, and personally, Jean DeMaster, this is a joke, maybe because we are at the beginning, but she solved it. But I haven't got...Columbia...many, many problems. And I agree, something is wrong. But just because I have no problem, it doesn't mean I don't have to be involved, because if everybody will stay in the shade and say, "Well, why should I mingle with this guy's..."

AC: So anyway, I put together a list of six or seven things, and I'll first start out with the English test that we're going to be required to take. And I was wondering, I'm a little, not nervous about taking the test, but I graduated from high school, I graduated from college, I did postgraduate work, and I'm a little offended that I have to take it. I was wondering if they could potentially change (end of Side 2)

(Nothing on Side 3)

Side 4 (begins with phone conversation):

TL: This Regency Park? Can I talk to somebody who does the hiring?

Receptionist: For what department?

TL: Any department, it doesn't matter. A couple of questions I just want to know as far as their hiring policy.

This is Ryan. How can I help you?

TL: Yeah, Ryan, this is Terry Lee with ROA Providers Association. I'd like to ask you a couple of questions concerning your hiring policy. Do you hire minorities?

Ryan: Sure.

TL: Okay, do you realize that ex-felons are a minority? Ex-convicts?

Ryan: Okay.

TL: Okay, do you hire ex-convicts?

Ryan: If they pass our criminal record check.

TL: So you can, there's a flexibility there then?

Ryan: Yeah, we're required by the state since we're like a health care institute, to have all applicants fill out a criminal records check, and we send it to Senior Disabled Services Division. And they then, in turn, give us back as to whether they fall within the category or not of being hireable or not.

TL: There is exceptions being made then.

Ryan: Well, actually I don't know what kind of exception -

TL: Do you have any employees in your employ right now

Meeting with DeMaster continued:

TL: Violations from one home?

(unintelligible)

JD: None of the existing operators take the literacy test.

_: Yes, they do. I asked a lady, she said four times...

JD: Okay, Columbia Providers Association has asked us if we will review and change that policy, and we have agreed yes, we will review that policy, we'll amend that policy. We haven't figured out exactly what it is we're going to do, but we will change it in a significant way.

VY: So they have to be able to speak and write English in order to be a resident manager in the State of Oregon?

JD: Yes.

VY: Why is that?

JD: Because you need to write the progress notes and read the rules. But Columbia Providers Association said, "Would you change that?" and our answer is yes. They asked us that I think last week, and we said, "Give us a couple weeks to figure out a response and we'll get it back to you before the next meeting of the Columbia Providers Association.

VY: If you can't speak English, in other words, just go home?

JD: If you can't speak English, you can't be alone with the resident in case there was a fire or some kind of medical emergency because you couldn't call.

VY: Excuse me. You don't have to be able to speak English to be able to understand there's a fire. You can look and see the flames. You don't have to read, you don't have to do nothing.

JD: What would you do if you saw a fire and you couldn't speak - the reason for this is -

VY: If I personally could not speak English, I would pick those clients up and get them the hell out of there. And you don't need to speak English to pick somebody up.

JD: A number of deaths have occurred in adult foster homes where the providers couldn't speak English in a fire hazard. It's responding to death.

TL: Now you're saying that, you would provide our association with those instances please?

JD: Of the deaths?

TL: Yeah, caused by - what you just said, the number of incidents, deaths that have been caused because the people could not speak English. Now I would like, our association, would like to have those incidents.

AC: Yeah, we must provide transportation. So we need to lease a van, we need auto insurance.

GD: These are the proposed rules.

AC: Yeah, the proposed rules...

TL: Well, the ROA Providers Association's attorney is filing an injunction on that anyway, so they're not going to -

JD: That's not the intent of the state rule. The intent is not that you have to lease a van. It's not in the Senate, but that's not what's supposed to happen.

AC: Right. And that's the whole thing of the rule. I guess it's not in the Senate bill, but you know Oregon Fair Share and all the people that are writing the state rules have added that on top.

JD: I don't think so.

GD: You should mention also the misrepresentation because this is happening because all the other associations, like Oregon Fair Share, they have a saying in the committees. We don't.

JD: At those particular meetings Oregon Fair Share was there, but four of the provider associations were also there. They were statewide meetings. The intent there was that the provider had to insure that the resident had access to transportation, not that the provider had to provide the transportation. If you could get that, Judy, I'd really appreciate it.

__: I'm going to be in Salem tomorrow at the state board meeting...and Mark Fisher has calculated that. And...literal...rules, it does add up to over \$10,000 per home if you take...because so much is open to subjective interpretation. If the licenser...insurance...situation if they took the rules literally, it would add up to over \$10,000...

JD: And that was not the intent, so I think if you could get to the state, they will take out the language that says that.

AC: I brought that up just saying that the state rules as they're written right now are - and if Multnomah County has to write rules that are like that - are really detrimental to us.

JD: We're not writing the Multnomah County rules in that format, and that's part of what is taking us longer. Our intent is to have the rules in a simplified, clear format and in language that any person can understand, where you don't have to be an attorney to understand it.

__: Jean, do you realize that they are serious?

GD: (unintelligible)

JD: No, no, we're not going to adopt the state rules. We're going to adopt the intent of the state rules, but it will be in a different format.

__: ...major serious flaws and problems you need to...

JD: And that's why we haven't come out with the county rules because it doesn't make any sense until the state gets their clear for us to - we don't want to adopt the problems that are in the state rules.

VY: But from what I understand, you are.

DG: ...gonna save a lot of money. You don't have to...

JD: We disagree on that. I understand that we disagree.

AC: We have in one of our homes a lady who lived in the houses on Killingsworth and moved. And one of the reasons she moved - when she moved into our house, we told the social worker that we would only take the same rate that she was paying at Killingsworth. And she does have special needs, but I have other people in my homes that have as special needs as her, and the rates are about \$400 difference, \$200-300 a month difference. Now I know that you don't deal with rates, but I mean that's some of the frustration is they moved them into these homes and somehow they negotiated those rates. We've been feeding on the social worker for one lady who has special needs very similar to the lady that moved in. We're getting paid \$1,130, and she keeps going.

VY: Alan, may I touch on that when I spoke earlier about the woman that was moved from \$800 into Carol Wiebold's home, it's the one that when I contacted you because you had her? Okay, so she went from \$800 from what I understand to \$1,556, and then into your home?

AC: Right, right. But I mean the only negotiation that happened was that we wouldn't take her for anything less because we knew that they were getting paid more, so. And I think that's just a whole different thing. There's a form called the 360 which, you know, we've never asked for it because we're afraid of getting black balled.

_: ...city water...it's not only Multnomah County, it's all the counties.

VY: And do you realize that they do that in the referral services? That you come up on the screen in the referral services? They call the referral services and have them put it up. Before you've gone to your hearing.

TL: Even if your allegations are unsubstantiated.

✶ / JD: I want to say that is not the case.

VY: I already talked to Rick Davison, and he said I have not even gone to my hearing yet, and he says I'm already on the computer black balled.

JD: Yes, but what you said was we called the referral services, and that's not true.

VY: You send them.

JD: No, no, no...records.

VY: Well, Rick Davison has me on his screen as to all my Allegationss.

June Sulridge, Adult Choices Ref Ag.

J.S.: The only time Jean DeMaster calls me as a referral agent...a meeting of a referral agency. She does not provide me as a referral agency any information.

VY: Can I ask what referral service you're with?

J.S.: Adult Choices.

JD: We don't send them to anybody else.

TL: If they will call the family members and tell them the allegations and stuff before they are substantiated, then why wouldn't they do that? They're calling family members.

JD: I think the question was, do we call or inform the referral agencies, and the answer is no. Complaints are in the public record. That's what the law says they have to be. They're in the public record, and Rick comes and looks in the public record. So do a number of other referral agencies. But we don't send it out. They come and look in the public record.

AC: This is just kind of a county thing and not specifically adult care home program. But there's no licensing of people who come into a person's home and take care of them. You know we go through all the rules and regulations, but for example, I don't remember the gentleman's name, but there is an elderly couple whose aunt was living in their home. And they're getting to the point where they can't take care of themselves and so they went to an agency. And they have a live-in now, not even a CNA live-in. And the family suspects financial abuse, and I'm just concerned that there's these people giving care to private people that don't have to go through the rigorous criminal records checks, and the classes.

JD: Is the person employing them?

AC: The person is employing them through an agency.

JD: I will find out about that.

AC: If I was elderly, I could call up one of the nursing agencies and say, "Send somebody out to live here." They don't have to go through -

DG: (unintelligible)

AC: Well, I mean, the county also provides people that can go and take care of people who are homebound, go and cook a couple days a week, clean their house, and that kind of stuff. And I'm not talking about that. I'm talking specifically, you know, I could call up a number of agencies.

JD: Yeah, you can look in the phone book.

AC: Yeah, look in the phone book...the agencies. They all basically do the same thing that we do, they charge a whole lot more, and in fact there's been cases of like financial exploitation.

_: Nearly all the hospitals have lists, too, of care providers available.

AC: But there's no licensing of those people that I know of.

JD: Right, there's no licensing of those people.

AC: And I guess the last thing is that we bought one of our homes from my stepmother, who has the same last name. And my father and her have this high-tension relationship and so my father would call in complaints. The complaints in the file are basically when my father said, "We're moving to Arizona, damn it, sell that damn house, get out of it," you know. Somebody called in a complaint and tried to convince her. We were I guess on the dirty - a year and a half after we bought the house and we were operating it, we were on the dirty dozen list because of my stepmother's complaints.

JD: No, complaints from somebody else don't go onto your license.

AC: Right, but, but because it's my address -

JD: No, it doesn't go with the address, it goes with your name as the operator.

AC: I mean, well, we have the same last name.

JD: But it doesn't go with the last name. It goes with Alan Carpenter.

AC: My stepmother's name was Lilah Carpenter.

JD: Right, but those are hers.

AC: Right, those are hers.

JD: They're not yours.

AC: Yes, but luckily, a licensing person from your office did a great favor by explaining that to Oregon Fair Share for us. And what I'm saying is, there could be some confusion. I have the same address, the same last name. You know, when can we get those, since she doesn't even have a license anymore, out of the books?

JD: Right. As soon as she closed, those should have been taken out of the book.

AC: I was there January 2nd or 3rd and they were still in there.

JD: We'll take them out. They're hers, they're not yours, they don't go against you and are causing confusion. When she closed, they should have come out.

AC: Thank you. That's all I have.

DR: June, do you have any testimony?

June: The only thing I have is, like I said before, about the state rules. Because they're - and I've been sitting in on a lot of these hearings and Jean and I in lots of meetings, and Alan and I in

lots of meetings, and there are severe problems with the rules. When you look at those rules, they are...counties in some of the...they are being implemented...and -

JD: But not here, not in Multnomah County.

June: I know in Clackamas and Washington they are...

JD: Not in Multnomah County, they are not.

June: They are being implemented already and there are some severe problems with them. I know that it has been ____ to the legislature and there is ____ legislature to stop this process because of...

JD: And we have specifically not implemented those rules because we know that there are some problems with them, and we have waited. And we're taking some pressure because we have waited, but we believe that the state should get a final draft. And once that's there, oursr will come after it. So we have not implemented.

June: Because I've made a lot of phone...people tell me and people talk to me, I do know that there are discrimination issues and harassment issues in all three counties. I have talked to...in Washington, Clackamas, and I'm gathering in others. As you know, Jean, I'm very proactive, I want this put in...I want it put, I'm not one to attack...solve the problems. And...said there's discrimination in the Salem area against Filipinos; I know some in Washington County against Filipinos and Rumanians, there's some in Clackamas against Rumanians, and there's some in Multnomah County against some Rumanians. And I...those actually...

JD: I would encourage you to send in any documentation you have, and we will address the issues.

June: There absolutely are some, and part of it comes from those who come to our country from countries where they must ____ the government...

TL: Betty, would you like to come up? Betty has something she'd like to read...

Metty: I'm no longer a foster care home provider, but an advocate for both the providers and for the -
I'll read it for the rest of the people here. "Mrs. DeMasters, our foster care home rules have grown to be a keg of worms. And just how many of the people working in your office can pass all the rigorous rules governing the providers? First of all, I am sure having a DUI does not make it impossible to work in your office, or does it? There are just a few of the rules that are too restrictive, I feel. I've heard of two different providers say they've got wrote up for a few toys on the bedroom floor that children occupy in a foster care home. 2. An inspector kneeling on a knee and looking under a provider's bed. 3. Looking in providers' bedroom closets and chest of drawers...several of the providers during inspection. 4. Inspectors writing up providers because the garage is not as tidy as the inspector feels it should be. I was under the impression this is where you store your lawn furniture, garden equipment, extra boxes, and so forth. 5. Having doctor's order to give a client a Tylenol or an aspirin is something that never should have happened. As a mother, I'm sure you gave your child a Tylenol or aspirin when a cold is coming on. And we are to be treated as a family giving tender, loving care to our elderly, the same as we would for our children. I hear over and over from people getting out of the business that the excessive rules takes the love out of being a good care provider. I

am no longer a foster care provider, but I will be an advocate for good care and love for the elderly till my dying day. Enclosed you will find a copy of a letter given me in my 23 years of foster care by Governor Roberts. Too bad more of our care givers aren't given a little more praise and less criticism. Metty Hanson[?]"

This is a letter that I received from Governor Roberts. And one of the people that was another care provider nominated me for this position without me even knowing it till I was called and told that I was selected. "On behalf of the citizens of the State of Oregon and in honor of National Care Givers Week, November 24th to 30th, 1991, I wish to recognize you for the important contribution you are making to your community. Oregon has over 10,000 people providing care to our elderly and disabled population. You are among a select group of 100 nominees for the ___ Care 1991 Long-Term Care Worker of the Year Award. I am honoring you in appreciation for your dedication, compassion, sympathy, and quality of care you provide. You show remarkable concern, ___, and I deeply appreciate the important service you provide. It is especially heartening to know we have people like you working to improve the quality of life for the person receiving your care. Your work is invaluable and serves as an example to our model of commitment and compassion. Oregon is very fortunate to have you as care giver. Thank you again for the outstanding, inspirational work that you do and for your help in making this a better place for all of us. Sincerely, Barbara Roberts, Governor."

This is the letter that _____ sent me, the guy who had her job before she came on the scene. "Dear Metty, This letter will confirm that you no longer are providing care or room and board service for residents as of 4/26/93 at 6445 SE 87th. If in the future you wish to provide room and board or care for the elderly with mental or physical handicaps or otherwise dependent persons over the age of 18, please call our office to request and submit an application for the licensure process prior to continuing operation. As you know, the licensure process involves approval ___ of the operator, of the care giver, and the payment of fees. Please call our office at 248-___000 if you have any questions. Thank you for your cooperation. Sincerely, Steven ___. Baloff, Adult Care Home Program." And in his own hand writing, "Thank you for your hard work."

Now, if you were doing foster care for 23 years, which one of those letters would you think that you deserved?

TL: Thank you, Metty.

DG: (unintelligible)

TL: I'm going to read here from Jeanne Duval's statement. "As an adult foster home owner, I believe nursing homes and Oregon Fair Share definitely should not be making the rules for the AFH's. The fact that they are involved at all sure tells me what the state and county intend to do with all adult foster homes. They are biased and against us. Attitudes of the adult foster home program employees when they enter your home: they like to intimidate the care giver, they don't care if it is at mealtime, they come in, spread themselves on the dining table and expect you to answer their questions while you are trying to feed your residents in their rooms. They are rude and arrogant. They have no compassion or thought for the elderly people they are to protect. They show no respect to the care giver. They approach everything we do with negative attitude. Most of the complaint specialists are in on a power trip. If someone stands up to them, we can expect retaliation in some way." Amen. "I would like to see complaints

be handled like this: whoever is making the complaint should have to do it in writing and have it notarized. The care giver and the complaint [sic] should meet with an impartial mediator, not the county or state, though they should be represented. That would cut down on a lot of nonessential charges against good care givers. Also, the unsubstantiated complaints should be left in the file. Even our justice system doesn't leave a charge on your record if the charge is not proven. Constitutional rights should not be taken away from care givers. We should be able to face our accuser. I don't mean a frail, elderly person, but the complaints that come from family, friends, or some irate person you had to fire because they weren't doing their job. We should be able to face them. The care giver should not have to give state-county permission to deliver into personal accounts. Would you like for someone going into your business? This empowers governments against us. Power corrupts. Absolute power corrupts absolutely." Very good, very well said.

VY: Would anybody else like to speak?

SM: My name is Sandy McCoog, Jean. When I was come up for licensing this year, I was sent a letter from your office down there telling me that my application was going to be denied. "Dear Mr. McCoog" (my husband, Robert McCoog - he is the care giver they have on here and the operator as me) "This office has considered your application to live or work in an adult care home. The rules governing our program do not allow persons with certain criminal records to work in adult care homes or to live in the home while it is in operation. Because of your criminal record, your application is denied. You may not live or work as a care giver in an adult care home." And this was signed by Betty Lowery. Betty Lowery is my inspector that comes in and does my licensing for my home. I had called her and asked her what to do next, and I said, "My husband is going to be going to eastern Oregon." And she said, "Why?" So I said, "Well, now what do I do?" I said, "Okay, you give me a call as to when you will be coming in to do my inspection." She says, "We don't do that anymore...last year." I said, "Fine." So she said, "Well, are you going to be there during the day or in the afternoon?" And I said, "Whenever, preferably the afternoon." Okay, so then...I talked to her about why he wasn't, I said he fills out this application all the time on criminal record. She said, "Well, he was denied because of DUI." And I said, "He got a DUI two years ago. He was not convicted, he was diverted, he has all the things on diversion." She said, "Well, he can visit you and you can visit him." And I said, "Okay." So then she sent me a letter telling me, with our phone conversation, "Mr. McCoog cannot visit you and you cannot visit him." So in other words, you know, it's like saying, we're going to break up your marriage and so he has to go his way so you can stay there.

TL: Why don't you get together with us? We have an attorney who'd love to take your call.

SM: I do have my own attorney. I went and talked to him. David _____. She had told my attorney that my husband also had supposedly a warrant for him. We were told to go to the DMV, the sheriff department, and they would pick on his record. They went clear back to 1979 - nothing, nothing. The state policeman stood there and laughed. He said, "There's nothing on here." These, I made copies of all this and sent to my attorney. I went over and talked to my attorney. He had talked to Betty, questioned her at length. I don't know what was said. This is all being taken care of by him. Also, when she came in and did my licensing, my certificate of compliance, my first one that was sent to me, you can read the writing, these are five things that I have to do in order to get my license. "Operator must obtain the 10 hours of training by 3/96." Okay, that's fine. "Care plan must be updated every six months or sooner if care needs

change. Ongoing." No. 3, "Copy house rules for each person." This has to be by 1/30/96. "Progress notes must be done once a week," which they are. Have (one of my residents) Mr. Rudnick [sp?] sign long-term access form by ASAP." "The certificate of compliance must be posted." Of course, we know that. "Above corrections need to be completed by" (I can't even read that, whatever it is). Okay, there was two more added on the bottom here. When she came to my home to do the licensing, we went through everything, went through everything we have to go through, the smoke alarms, everything, okay? We went downstairs, we checked the smoke alarms down there, the fire extinguisher down there. There was a table like about that size that had folded laundry on it, okay? Everything was fine, she never said anything to me about it. It's down here. Okay, it says, "Remove clothes piled in basement near stairwell by 2/5/96." Now, what the heck does that have to do with a resident? My residents don't even live downstairs, Jean. They're all upstairs. Those clothes were not in the way, and not only that, but my husband was sitting downstairs when we went downstairs and looked at her and she looked at him. Now what is this bologna, that my husband has to get out of my home? I wrote to the sheriff's office to ask for the warrant. There is no warrant. So where did she get her information?

JD: Betty, why don't you stand up?

BL?: Yes, I did...First of all, I don't know anything about a warrant, okay? I talked to your attorney, I sent your attorney the...regarding the criminal record. I have not talked to your attorney since then, so what he is doing, I have no idea. The reason those additional items appeared on your certification of compliance is because I did not remember to write them down at the time I was in the home. It is very common for us to take a field...back to the office and if anything additional comes up, we will add it onto the COC, but we will also put on there, "added after the...."

?: Why don't you talk to us...?

SM: In our home, and talk to us about it and not go back to your office and worry about it later?

BL: It wasn't a worry, Sandy. Wait, let me finish. I listed everything that I saw that I could remember at the time I was there. Once I got back to the office, yes, I did remember the clothes that were piled on top of the table. And when I saw the clothes there, they did not appear to be folded laundry, okay? That's what I saw.

TL: Even if they weren't folded laundry.

VY: Your washing machine and dryer, is that your folding table or?

SM: No, my washer and dryer is down at the other end. You walk down those steps.

VY: But how did those clothes affect the care of the people in her home?

SM: That's what I want to find out. What does this have to do with taking care of my residents, Betty?

BL: It doesn't have anything to do with taking care of - wait, let me finish. It doesn't have anything to do with you taking care of your residents. I saw that as clutter, and as part of

the...of your home, you are not to have clutter in your home. What I saw was a tabletop with clothes that did not appear to be laundry folded.

SM: Okay, in other words, if I don't meet your standards of whatever, yes, because that's been brought up about you before. I know about you...out of her business...issue.

JD: The issue is you can't have clutter. Betty's saying she -

SM: But the clothes don't come out of the dryer all prefolded.

VY: And what happens when you pull out that load to fold it and something happens and you have to leave the room? So when Betty Lowery comes in and you had to give a shower because somebody had an accident or something, and there's a pile of clothes that you pulled out of the dryer, you're going to write somebody up for it? Just like Judy Fowler just wrote somebody up for dropping a peanut butter and jelly sandwich on the floor. She didn't say it was located. The operator says, "Well, what? Did you think I was going to leave it there for 30 days and then feed it to my resident?"

JD: When a licensing person does a visit, they may not get everything written down at the time. They go back to the office, they write the whole thing up and there may be something else that they put on there. But if you disagree, just call Betty and talk to her about it.

SM: I disagree with the fact of, it's not just this. It's that record of my husband. We went to the DMV, we went to the state police, they went clear back to 1979, they do not have nothing. All these papers were sent to my attorney.

BL: I don't know. I can't answer...

SM: He talked to you over the phone and you know it, Betty. He told me that.

(end of Side 4)

__: Well he brought it up to me.

TL: I would like to -

__: You said you saw a pile of ____ in the office and remembered to write it down, right? Is that correct? You saw that?

BL: ...towels on the table that did not appear to be...

__: ...concerned about it, so why didn't you ask her or talk to her...? Even though you people have to write it down.

BL: ____

__: So why didn't you ask her right then?...

(unintelligible)

DR: Betty...doesn't the provider sign the COC?

BL: She did sign the COC.

DR: And then you went back and you added to it?

BL: Yeah, and before I do that I always indicate on the COC these items were added after the operator signed.

DG: They were not there when you...them up. They were not there anymore.

BL: They weren't there on the original, but I'm saying now that I always put a statement on the COC saying that the operator signed afterwards.

DG: ...maybe they were not there anymore when you added them on.

BL: But they were there when I was there.

VY: Did they appear dirty or smelly or anything like that?

BL: No, they were just a pile of clothes on top of the table.

(unintelligible)

TL: Okay, we have somebody here from a residence that was forced against their will. These are family members.

I just wanted to add on that, what does the basement have to do with the house? As far as I am concerned, you have no right to even be in that woman's basement unless those people, you know, unless they go in that area, you have no reason to be down in that basement.

JD: The question is -

BL: If there's more...in the...

TL: Then that's a direct violation of constitutional rights to privacy.

JD: What the regulations require is that we inspect all of the premises, and the intent is that if there is a fire safety hazard in any part of the premises, it will affect the residents. If you say the residents don't go in the basement, but you store gasoline and lit candles -

__: That's kind of different than a pile of clothes on the table.

JD: The question is, why do we inspect the basement, the garage, other areas.

__: No, I understand that, but you said there was clothes on the table. That's kind of...and I don't think we're that stupid not to know...a fire hazard.

TL: Okay, we have some testimony here from family members.

PS: My name is Pam Schwinter, and my mom, Wanda. And approximately three years ago - I'm not a provider, I don't work for the county, but my grandmother has been under... here for almost three years. I'm sorry that you're seen, Val, in an angry mood because for the 2-1/2 years she took care of my grandmother, we would go in day or night, we never called, we never announced ourselves, she said, "My door is open." We were told if you want to see what a care provider's home is like, you go day or night, you drop in. And what we always saw was a completely immaculate house, we saw Lou laying on the couch, a woman who was dying of brain cancer, clean and taken care of with a colostomy bag, Val in a calm mood all the time, lovingly taking care of these people. If you know, Jean, the home, then you know the residents. You know Jenny and you know Bev. Bev just said every time we visited that that was like heaven to her. As a matter of fact, I'm going to ask my mom to check the record, but I believe it was Aging Services that recommended Val specifically to us because of the kind of care she took of patients with female dementia and Alzheimer's. Jenny also said that that was her home and that's where she wanted to be. Now, Val was the third place that my grandmother had been. We had placed her in a place called the Altenheim, which was inappropriate...we didn't know that. And she was also placed with another foster provider, who probably had every eye dotted, who had every T crossed, but force fed her and diapered her when she didn't need diapers.

Mother: It was in front of me she force fed my mother.

PS: Now, I guarantee you that when I called and said that I was appalled about this, there was never - I wish you would look at me when I'm talking...because Val is the one that you're going to go into a hearing about and be critical about, the care people, and it was my grandmother that she provided care for.

JD: If I don't write it down, then I'm not going to remember it all.

PS: Okay, then maybe I should wait. The point is that, day or night, my grandmother was clean, the house was clean, she was happy, she was content. The only reason she wasn't yanked out with Bev and Jenny and Chet and his wife was because we were fortunate enough to have had our grandmother with Val out in Sandy. Because we said, "If you're going to go out there, will you take her with you so she's with you all the time?" Because that's how good Val is. Otherwise, Grandma would have been yanked out with everyone else, confused and terrified, and we would have been one of the families to say, "No, this is not okay with us." But we didn't have to go through that, we were just lucky. At this point, if it weren't for Val, our grandmother wouldn't be where she is now, which was in our minds temporary six months ago. She found a nice home with a good - her other home - with a good provider to take care of -

VY: Now I want you to know they're probably going to use this against me because I wasn't supposed to have anybody else into that home.

PS: Great.

VY: But that's all right. That's fine.

TL: That's fine. They've already buried themselves.

VY: I'm not worried about it, hon.

Mother: We're concerned about the care my mother's getting. We're paying good money, and she's getting good care. I was called by Multnomah and told that the residents in Val's home had been removed and I asked why. And she said, "Well, there's just some things that are being said against it that we don't think it's safe to leave her." So she inquired and asked me about my mother and what kind of medication she was on, and I told her she was never on any medication, and she said, "Well, you're lucky." And then she asked about where my mother was, and I told her that she was with Val out in Sandy. I had no idea, and I even made the remark, "I'm glad there are watchdogs watching this." And then I got a call from Clackamas County that they had investigated Val and that she said, "I tried to talk to your mother." And of course, you don't communicate with my mother. And she said, "I examined her and everything's fine." And I said, "Well, I would have been mighty surprised if you had found it any different because," I said, "Val has had my mom for 2 years and a half and," I said, "there's never, ever been any reason for me not to know that she's getting the care that I want my mother to have." And the first foster care we were in, I can't even imagine - had I known that there was somebody waiting to close homes, boy, she would have been reported because she was absolutely, she's a disgrace to the foster care.

PS: But I guarantee you that if you would have gone in there, you would have found all the paperwork in order and there wasn't a pile of laundry on the table. But she was horrible with those residents, and no one would have seen that on any kind of an investigation or any kind of a supervised visit of any kind. You wouldn't have seen those kinds of things. The point is, Val was taking care of our grandmother, who started in with the early stages of senile dementia and she progressed until she was in the late stages, she had a stroke, she requires all kinds of physical help. And Val did the day in and day out perfectly. And we're not the kind of family that's so far removed that we don't know what it should look like or that soft spots...is good enough and they disappear for another year. And so we're mortified that this is the way that Val is being treated and that these other people, who we became somewhat familiar with because they were cogent -

Mother: They were a family.

PS: And Jenny would have a conversation with us while we were there about how it was to be there. And so I know there's got to be people and places out there that really deserve this kind of investigation and I don't believe it's true that that's the case with Val. And her brother's the same way. We watched him take care of our grandmother.

Mother: In the county homes that we looked at before we placed her the third time, I wouldn't have left a pet there.

PS: Nursing homes.

Mother: You talk about nursing homes, dirty, and the floors, the rugs, the smell. Don't tell me about nursing homes and your rules and regulations about keeping clean and providing. No, no, no.

TL: See, Valerie thought she was an isolated case. We're finding just last year 200 homes were

torn down. I can think of just one home. If that home was closed down - I'm speaking of Pearl Armell - 35 lives would be affected, devastated and destroyed. There was one incident here awhile back where a resident was so distraught they went up and jumped off the Morrison Bridge.

___: ...that Bev was moved from Val's.

VY: It took four county people and a police officer to get her out of my house, and they still couldn't get her out. I had to lie to her, and then in my allegations they say that I interfered in the moving of Bev.

PS: Well, I think it was horrific, because Bev would come and sit and talk with us about the kind of care that she received and how this was her family and how loved she felt. And this is a woman who didn't have a lot of family members that visited her, and who would have been terrified to be anywhere except where she was. I think it's horrific.

VY: And I offered to keep Beverly for free, but yet Jean DeMaster sent out four county people, which Kathy Weisman was one of them, and a police officer. Beverly stood at one end of the room, the four county and the police officer could not get her out of my house. After about 35 minutes, because I was worried they were going to cause her to have a seizure, I went in and I lied to her and I told her, "Would you just go with them for a couple days, and if you don't like it, you can come back." That's what I had to tell her.

Mother: It think it's a terrible thing that you have to do things like that to human beings. I really do.

(applause)

VY: She's been bedridden for over a year now. And when they came out and checked her body over, she did not even have tissue breakdown on her body.

___: Special ___ for special care.

VY: I specialize in Alzheimer's, dementia, I take hospice, I take everybody that nobody else wants, that's who they send me. But this particular lady is private.

TL: Maria?

DR: Linda Sheldon was waiting to speak.

LS: And my daughter Becky. She lives in my home and works with me. The one lady here was saying something about emotion and anger. And there's a real human element to this, and there is petty grouching that goes on and our livelihoods are being threatened, which also threatens our families and ourselves, and that's why you see some of this coming out. In my particular instance, I was a multiple home operator for 10 years, no problems. Maybe minor problems with employees, but nothing. Okay, then my marriage split up, I became a single parent of five children, I have a severely mentally retarded daughter, my two teenage daughters decided to have babies, I'm now pregnant with my sixth child. During these past two years, I have been totally, totally ___. I've had people come out to my home and write a report. They would exaggerate, people outright lied. Then I'd have another person come in, and they didn't

find anything wrong. What have I been harassed for? Clutter. I do not have dangerous clutter blocking fire exits or anything. It started with my children's bedrooms. My kids throw their shoes around, their coats, whatever, they're kids. They kept it in their bedroom. I have a beautiful custom home, but I don't have good storage in it. So around Christmas time we had extra boxes. And one person, you know, we had laundry on our table. I had it on my table because I was going to fold it. I had to give a shower because I had a lady have an accident. My retarded daughter was running around, she'd had a sandwich, she dropped it on the floor. It was Annette Pott that came into my home. And I answered the door and I said, "I'm sorry, but I can't talk to you right now. I've got a lot of things going and this is not a good time." She wrote a terrible report. When I confronted her later on...peanut butter and jelly sandwich. "Well, we can't have food on the floors." And I did, I came right out and said, "Did you expect me to leave that sandwich there for 30 days and just look at it?" You know, I mean. So I went through this over and over again, and it was very, very frustrating. My four-year-old son was so terrified when the doorbell rang because he was playing with his friend in the family room. We had toys on the floor. My son jumped in the closet and screamed and was in there crying because the county was going to take our home away because he was playing. He's not supposed to play in the family room, we can't have clutter around. I was told I was licensed for five people, and I had five children.

But in the middle of the year they changed their mind. Well, basically, it was you could have four residents and four kids, but not both. So I sent a 16-year-old daughter with a baby and no job out into the world so that I could take care of the remaining four children. I should not have been put into a position where I had to make such a choice. My residence was well cared for. There were not issues with my families. I have a lively household, I have a lot of pets. And the people that are in my home choose it that way. They know that it's not picture perfect, but they choose the environment. They're not held hostage there, and I don't feel that I should have been harassed for these things.

Rick
I had my license frozen, which is something that I definitely want to talk about. I have been black balled by Ruth Davidson. I feel that I work in a completely negative atmosphere. When the county comes in, they look for something wrong. You know, I've got things all over the wall that say make a complaint. There must be something you can complain about. And on my license being frozen, this was several months ago that this happened. I had conditions put on my license, and one was that I hire a housekeeper for three hours a day three days a week. I had a person come into my home to investigate. I was not home. My son-in-law is my housekeeper. Carol Eisner approved that. He's one of my housekeepers. I have a couple of girls that come in once in awhile and rotate. I wasn't home. The investigator went back to Jean DeMaster and told Jean DeMaster that I said - out of my mouth - that I said that I had never hired a housekeeper. My license is frozen. I cannot keep my home full, I'm in an area that's oversaturated with foster homes. I have a 30-40% vacancy rate myself, but my license is frozen. I had to pass up a couple of residents because of something that never should have happened. I did not say that.

TL: Was there an affidavit sworn, anything?

LS: Mary Fascile sent me a letter stating that I said that she was going to freeze my license on the basis that I'd said I had never hired a housekeeper, therefore I am in noncompliance. I have gone to the Oregon State Bar, I have right here in my hands Mary Fascile's statement that "my action was based on the information given me by our staff who visited her home and reported

LS: Can my daughter say something about how she feels? She was raised in an adult foster home all her life, and would you tell them how you feel about the past year that we've lived, what it's done to your life?

Daughter: Um, well, they keep coming in, harassing us, and just destroying our lives. We don't have enough money, like I can't buy any clothes for when I go to my work. I have to wear the same clothes every day because they came and harassed us for so long. Like one time this lady came in and I was doing laundry, and I had a clean pile of laundry on the floor and I was putting it into the dryer. The lady's here, but she wrote me up for having laundry all over the floor. And then one time I was helping give a shower to a lady and we have, okay, our ___ shower is all closed off and we have doors so nobody goes back there. And the lady came in and she sat on the table right next to the bathroom when I was giving her a shower, and she said that I was indecent exposure because I was giving her a shower with the door open, but it was also ___ off because she walked off back there herself. She just stood there and watched me. I mean, they do stuff like that all the time.

___: An invasion of the patients' right to privacy, it sounds like to me.

___: Becky, how old are you?

Daughter: 15.

___: See how they turn it around?

LS: One thing, the reason I didn't get harassed many years ago, when I ran my multiple homes for 10 years is because I didn't open my mouth. Now, if you stand up for yourself, you're going to get it back 10 times more. And that's what I found in my experience. Heather Stuart called me up. Years ago I dealt with Heather Stuart. I suspect that she wasn't a nurse. I'm a CNA, I worked with nurses all the time. The woman did not know what she was doing.

___: May I ask you why you suspect that she wasn't an RN?

LS: It was real obvious that she didn't know things that a nurse would normally know. Her manner was terrible with my people, she upset one of my families. I had a lady with Alzheimer's that could not walk anymore. She was so confused, she didn't know how to walk. She had osteoporosis severely, and was in danger of hip fracture. Heather Stuart ordered me to take the restraint off of the woman, even though she had a doctor's order for a restraint. Her daughter cried. She says, "I don't want my mother to break her hip." Heather was - there's no way to put it except for she was a jerk. The daughter's crying. I want you to know the woman fell. She had a hip fracture and she died four months later. And I watched her in pain, and that would not have happened had that restraint stayed on her.

___: So Heather took the restraint off?

LS: Heather ordered me to quit restraining her.

TL: Do you have the family's name?

LS: Yes, I do.

- TL: Good, I'd like to get a hold of the families.
- LS: I didn't speak up about it before because I was afraid.
- VY: But you did have doctor's orders to restrain this lady. And Heather Stuart thought she could override those doctor's orders it sounds like to me.
- LS: Yes, she said there were federal regulations that, you know, we couldn't use restraints anymore, and she even made a smart-alecky remark that the residents have a right to fall and break their hips. She said this in front of the daughter.
- JD: You said you wanted the record corrected. What part of the record do you want corrected?
- LS: Okay, on my license being frozen, it should have never been frozen because I was never in noncompliance. This has hounded me for months, and I almost lost a client from DSO. They were going to jerk them out of my house because they thought my license was still frozen. They threatened not to pay me, and apparently I haven't been getting referrals for months because of this. Now, I'm having a hard enough time keeping my home full in the area that I live in anyway without, you know, the added pressures, the financial burden. I've got a large family to support and, you know, this is all I know how to do. I've been trained to do this, this is my life, I've done this since 1978 I've worked with elderly people.
- VY: And you've given your life to it, haven't you?
- LS: Yes. And you know what happens to me if I lose my business? I cannot even afford an apartment. I have such a large family, I won't have housing. I'd have to give my children up. If I go on welfare, I'd have no housing adequate for my family.
- TL: They don't take this into consideration.
- VY: If I was to lose my - they don't realize when they take that license off the wall how they devastate your life over a peanut butter and jelly sandwich or a pile of clothes. You lose your license, you're going to end up having so many judgments against you. You're not going to be able to go out and get a normal job because somebody's going to be garnishing your wages. You know, they destroy your whole life, especially if you have children to take care of.
- _: I have two grandchildren that I take care of, and you know, _ that happened to me, Jean, my license was taken away from me. My marriage...uh-uh, I don't think so. Not going to happen, and I will see to it that it won't happen.
- VY: We intend to make sure that it doesn't.
- JD: Other issues that Linda is asking about...is how many homes has the Adult Care Home Program closed?
- VY: About 250 last year.
- JD: The Adult Care Home Program took the licenses or revoked the licenses of less than 30 homes last year.

VY: That's not the report we got.

__: Well, the rest of us closed voluntarily...

JD: There are a whole number of reasons that homes can close. Linda asked me about this, and I've prepared some information. What we looked at is how many homes closed altogether, and then why the homes closed. And just let me take a minute to go through this. What we looked at was how many homes were there on December 31st of '94? There were 653 homes. Then during 1995, and actually during the first month of '96, I've got 13 months in here, we added in 149 new homes. But then what we were looking at is why did homes close? And 61 homes closed during the same 13-month period because the operator moved and sold the home, usually to another operator. Forty-six closed because the operator decided to close, 20 because there were no residents, 14 because they moved out of the county, and 12 because they didn't renew. So altogether there were 153 homes that the operators closed. The Adult Care Home Program revoked licenses on 26 homes. And at the end of January of '96 we had 623 homes in operation. We looked at how did that compare to over the years? In '92 at the end of the year there were 548 homes; by the end of '93, 612 homes; at the end of '94, 653 homes; and at the end of '95, 620 homes.

__: You need to do another survey, Jean. You need to ask how many people voluntarily closed their homes and moved out because they felt they were harassed or unfairly treated by the county and that they needed to go elsewhere.

VY: You can't go by this, Jean. You know, this is your figures. Where is some substantiating proof of this evidence? And for one, Kathy Weisman herself said, "If I have to get a sworn affidavit," from the person that she said it to, said she alone closed six homes down last month.

JD: Okay, I was responding to what Linda was asking me, what people were asking about, and this is just a draft. I will go back and get more information, but these figures -

VY: This you could have just made up. There's no substantial proof to this.

DG: Even on this draft, on the '92 and '93 it shows a steady increase. In '94 and '95 shows a decrease. And we know in '94 we had the outage[?] So it's obvious...and we know the population of elderly are growing...

VY: So on this draft here at the bottom, are you accounting for the new homes that are opening up?

JD: Yeah.

VY: I don't buy it. I want proof.

DG: ...normalized on each category you listed...see how many persons the operator had?

JD: Right, and we'll go back and get more information, but this is the initial information we got when we looked at homes that were closed.

DG: As far as we know, there are a lot of operators that are __ to move to Arizona...less

regulation and the rest of it.

VY: So you're saying that there was onl

JD: I'm saying we revoked the licenses

VY: What about suspending their license
to a hearing?

JD: There aren't any homes where we s
included.

choose to go

...so they're

(laughter)

VY: Thank you very much.

TL: That was good.

DG: ...that means you have to consider all of them...on the edge.

JD: Provisional or...

TL: So there isn't a home that you've put on suspension that you haven't closed.

DG: Provisional [Positional?] and [potential?], both of them.

JD: Right.

VY: How soon can we expect to get a hearing now?

JD: You can get a hearing, according to the rules, if you disagree with a decision that we have
made, you can get a hearing on that decision.

VY: So how long would you expect that it might take you to make a decision?

TL: With everything involved here, we're saying our constitutional rights are being violated.

VY: Yeah, homes are being closed down every day, from what I understand from people that I've
talked to. Homes are being closed down or in the process of being closed down every day.
So how many lives are going to be destroyed until you make that decision?

JD: I will write back to the Rock of Ages Provider Association on whether I think we've done
these things or have not done these things. I've got nine pages of notes at this point, we've
been here for almost three hours. It will probably take me at least 10 working days to get a
response to you, but after that I will get a response to you. And you can choose to...

VY: We are also going to be sending a report to the Governor's office, who has asked for personal
and also Senator...}

TL: There's a couple of cases I'd like to bring as far as discrimination and everybody not being measured by the same rule. Maria Trabano was closed down the - you want to come up here? I want to get you on record here. The bottom line was in your appeal there was only one allegation that was substantiated, right? Which one was that?

MT: Right, the one that I had six people...

TL: What's your nationality?

MT: Romanian. And for that matter...I lost my home then. Since then I've been going through hell. I lost everything I had, actually, and last year I called Multnomah County.

VY: Excuse me, wait a minute. You didn't get a warning, they just found six people in your house, substantiated it, and closed you down.

MT: Well, I went for the hearing and they substantiated that. They came out and they found six people in my home, okay? And I went for hearings and I've been turned down. I had my...work out and so far I've been turned down. And they moved the patients - actually, they gave me notice to move the patients. I called the families, phoned them, and everybody was devastated. I called last year...I haven't got anything saying that I can't go farther. I don't know, I thought that's the end of the world. They drove my house...If I knew that I had the right to go farther, even though my...and I went out of money and my family is split - my husband divorced me...because of the problems we had with Multnomah County, he was saying that it was my fault...there was a problem between us because of what happened. And I haven't got anything from the county or from my attorney saying that I can go farther, I can appeal. And they literally closed my home down.

Last year I called the county, which was a year after I closed. I talked to Anna Marie if I remember, I don't remember exactly who was I talked to...Anne Marie working for you, or maybe it was you I talked to? Because they put me on hold and someone else came and she said..."I know you came, I'm aware of what you have done." And I asked her if any way I can open my home. And she said, "No, I'm telling you right now I'm not going to be very likely." And I said, "Well, wait a minute, it's almost two years since then and a lot of things change and I have - I prove I went to school, I finished my surgical tech, and I...I'm working in Portland as a surgical tech, and I'd like to have my job back. I really miss my job and my patients, they are calling me...families, 'When you get your license back?'" and I said, "I call the county, and she told me right up front, 'No, I'm not going to give you a license.'" And I said, "Okay, so it's no way if I go to orientation to training for everywhere, if I can have my training back and all that?" "No," she said, "no, it's...to us, but I'm telling you right now that I'm not going to give you a license." And she kept repeating it three or four times. Well, I thought, I'm not going anyway...argue over the phone. And in my heart, I really think my home should never be closed down because of the six patients. That's the only allegation, that's the only substantial complaint I had.

And first of all, if I want to apply, I think it's no reason why they should...

JD: Okay, I know that it was more than two years old, and when the Rock of Ages Provider Association, they wrote to Jim McConn [sp?] and said would he reinstate your license? And I talked to Jim and he said he would refer the matter to the Multnomah County counsel, the

I had was unsubstantiated and the only thing that he thinks was because I had six people.

JD: I will get all of the information and I will send it over to the county counsel, and the county counsel will bring you in and decide whether it should be reinstated or not. But that issue is separate from whether you can reapply, and I'm pretty sure it's...

__: Were you closed because you had six clients, were they being __? I'm just asking for clarification.

MT: I have a letter and I have from each family. And a couple of the families came...to testify. And my attorney had talked to all the family members. Everybody had excellent care and I have in my file.

TL: Yeah, I read the letters.

JF?: So you couldn't have them there just because there were six people, not because of anything else?

MT: Right. And something else I'd like to bring up. My folks, my brother and my sister has a adult foster care home, okay, around the Portland area. And one of my brother, Paul __, called the county last year and said, "Can Maria Trabano stay with my patients while I have my days off?" And they told him, "No for any circumstances, if we come out and see your home patients with Maria Trabano, I'm going to close your home down." So they said in any circumstance, I'm...like I'm a criminal and no way I'm a danger for the patient...I just want to work and give a day off and make some money and, you know, work in adult foster care home...while Valerie said she can work in other homes, but not in her home.

VY: Yes, I can work in other homes, and I have allegations of abuse on me.

MT: Yeah, I never had an allegation of abuse and saying that I never...

JD: If she goes through the hearing process and the hearings officer agrees that the license should be revoked, then she can't work. And you already went through that process, and the hearings officer said revoke the license. At this point, Valerie is in the appeal process, and that why the situation is different. But what I would encourage you to do is to reapply, given the length of time and what you have been doing during that time.

MT: Let me ask you something. Is there any use for me to go and pay the money because I paid a lot of money, and I don't feel like I should go and pay the orientation fees, the application fee for \$40 a bed or however, and then to get turned down and the money's not...

JD: No, you don't have to pay any money at all. I would just write a letter, you know, to me or to the licensing person and say you want to apply to work in a home or you want to apply to operate a home, and ask for a decision, and tell what you've been doing in the last two years, of whether or not that is the...to you. I'm not saying it will be or it won't be, but you can ask for that decision.

VY: Can I ask why she could not, if her license was revoked for having six residents, what in the world would stop her from being able to give care to other people in their homes?

JD: I believe that there were a great deal more issues involved in the revoking of her license.

VY: We've already seen your paperwork on her, and there was only thing substantiated.

JD: I haven't seen it.

VY: Okay, well, I'm asking you if that be the case, let's say hypothetically, what would keep her from working in a home if that was the only substantiated?

JD: It is unlikely that we would revoke a license for one rule violation and...

TL: Jean, that's not what we are asking. What you're doing is she wants to go, even though her license is gone, you know, they found she was, say all the allegations were substantiated, none of them are imminent danger or anything. They have to do with breaking of rule, nothing to do with taking care of or abuse or anything else. What you told her is that she cannot go into any foster home care, and you might as well tell her the same thing as the nursing home, that she cannot go to a nursing home or a foster home or anywhere and apply for a job.

MT: They told me, the person I talked to last year, they said, "You can go and work in a nursing home." Well, can I go work in a nursing home I'm not...patient and I cannot pay for two hours in a foster home because I'm not...

JD: And the difference is in a nursing home you would be supervised by somebody else. In the adult care home, you would be there alone.

MT: Not at all.

VY: I'm saying there's no allegations of abuse or the care. We're just talking about having six residents. I'm saying hypothetically, if that's the only reason she was closed down was for having six residents, why can she not care for other elderly people in homes?

JD: Right, and my answer is, it is very unlikely we would close down a home for one allegation of six residents.

VY: But you did. I've seen the file and the paperwork.

MT: Any of those are unsubstantiated, but they count as a complaint.

TL: Can you answer that hypothetically, if that was the only thing, how can you - ?

VY: ...they wouldn't close down a home for that.

TL: But you did do it. We have a sworn affidavit saying so.

(inaudible)

VY: We've seen their paperwork, and everything says, "Unsubstantiated." There's only one thing in their paperwork that she has, copies of everything, that state that.

___: I would. I would like to ask...I just opened my home as of November, and I would like to know if...check the public record...

(tape ended)

FORMAL OPEN HEARING TESTIMONY AGAINST AGING SERVICES DIVISION

OF

DIANNA J. ROBERTS

PART 1

FEBRUARY 27, 1996

I HAVE BEEN OPERATING MY ADULT FOSTER CARE HOME SINCE 1985. I HAVE NUMEROUS LETTERS OF RECOMMENDATION FROM DOCTORS, VISITING NURSES AND FAMILY MEMBERS. FOR 10 YEARS I OPERATED WITH .01% VACANCY RATE. IN JUNE, 1985 A CASE MANAGER AND THE EAST BRANCH MANAGER SHOWED UP AT MY DOOR AT 1:00 PM AND STATED THAT ONE OF MY MEDICAID RESIDENTS HAD PHONED THAT MORNING AND SAID I WAS EVICTING HER. I ASKED, IF THAT WAS THE CASE, WHY DIDN'T THEY PHONE ME TO CONFIRM THIS. AFTER ALL, THIS PATIENT HAS A HISTORY OF MENTAL DISORDER. THEY SEEMED DETERMINED TO TAKE HER OUT THAT DAY, WHICH THEY DID WITH HER CLOTHES IN MY LAUNDRY BASKET. IT WAS REPORTED TO ME BY THE NEW CAREGIVER THAT THEY LITERALLY DUMPED HER OFF -- NO DOCTORS ORDERS -- NO HISTORY -- NO IDEA HOW MUCH SHE WOULD BE PAID, ETC. THE CASE MANAGER, JOHN CHABIN, ADMITTED TO THE EAST BRANCH MANAGER, BETTY GLANTZ, THAT HE HAD NOT YET, IN FACT, READ HER CASE HISTORY. AS A BRANCH MANAGER, THE

TESTIMONY OF DIANNA J. ROBERTS
FEBRUARY 27, 1996
PAGE 2

VERY LEAST, BETTY SHOULD HAVE DONE WAS LEAVE HER WITH ME UNTIL THEY HAD FAMILIARIZED THEMSELVES WITH HER HISTORY; AS I HAD TAKEN CARE OF HER FOR 6 YEARS!!! ON TOP OF THAT THE FAMILY HAD GIVEN SPECIFIC PHONE ORDERS NOT TO MOVE THEIR MOTHER. HER PHYSICIAN OF 6 YEARS HAD, ALSO, WRITTEN A 2 PAGE LETTER (DATED 5-3-95) ADVISING AGAINST MOVING HER. THIS SAME PHYSICIAN WROTE A LETTER TO HER ATTORNEY CONFIRMING THAT THIS PATIENT, FLONNIE McCLANE, WAS 'NOT CAPABLE OF MANAGING HER OWN CARE AND APPOINTMENT OF A GUARDIAN IS NECESSARY' (DATED 5-15-95.) BOTH THESE LETTERS WERE SENT TO HER CASE MANAGER, JOHN CHABIN. THEIR RESPONSE TO THE FAMILY WHEN JOHN CALLED TO INFORM THE FAMILY OF WHERE THEY HAD MOVED HER WAS, 'WE WORK FOR MRS. McCLANE -- NOT YOU.'

SUBSEQUENTLY, SHE WAS MOVED TO TWO (2) OTHER FOSTER CARE HOMES -- EVICTED FROM BOTH OF THESE HOMES -- AND NOW HAS HAD A STROKE AND IS A NURSING HOME!!!

THE COUNTY HAS SUBSTANTIATED SEVERAL ADDITIONAL FABRICATED ALLEGATIONS THAT "VISITORS" FROM THE COUNTY EXTRACTED FROM

TESTIMONY OF DIANNA J. ROBERTS
FEBRUARY 27, 1996
PAGE 4

JEAN DeMASTER SITED THIS "ALLEGED COMPLAINT" TO SUSPEND NEW ADMISSIONS TO MY HOME FOR AN ADDITIONAL 30 DAYS BEFORE AN INVESTIGATION WAS COMPLETED!!!

AND, OF COURSE, NO ONE KNOWS THE SOURCE OF THIS "ALLEGED COMPLAINT" OR WHO A/P or A/V IS, BECAUSE THAT IS "CONFIDENTIAL" ACCORDING TO "STATE LAW". (ANOTHER VIOLATION OF THE U.S. CONSTITUTION TO BE ABLE TO "FACE OUR ACCUSER."

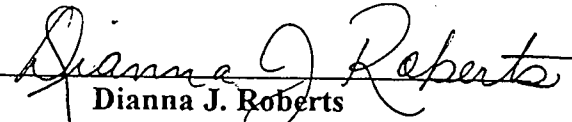
THE LIST OF THIS TYPE OF SUBSTANTIATED ABSURB ALLEGATIONS GOES ON AND ON -- FOREVER ON DISPLAY IN THE LOBBY OF THE ADULT CARE HOME OFFICE. -- NEVER TO BE PURGED!!!

SINCE I WROTE SENATOR JOHN LIM (WHOM INTERVENED IN MY BEHALF), THE OREGONIAN, THE TELEVISION STATIONS AND SEVERAL OTHERS ABOUT WHAT I CONSIDER ABUSE OF THIS LADY, THE COUNTY HAS BEEN RETALIATING BY CONTINUING TO ENCOURAGE COMPLAINTS FROM THIS LADY AND SUBSTANTIATING THEM. (SOMETHING LIKE 2 DOZEN WITHIN A 3-5 WEEK PERIOD IN JULY AND AUGUST, 1995.

FOR THE GREATER PART OF 1995 THE COUNTY ORDERED ME NOT TO PLACE ANOTHER RESIDENT IN MY HOME AT GREAT FINANCIAL BURDEN TO ME!!!

TESTIMONY OF DIANNA J. ROBERTS
FEBRUARY 27, 1996
PAGE 7

HE WOULD LIKE TO CALL A TRUCE, BECAUSE HE DID NOT WANT TO SEE
ANYONE LOSE THEIR HOME, BUT THAT IT WAS TOO LATE.


Dianna J. Roberts
19390 N.E. Multnomah Ct.
Portland, OR 97230
(503) 666-9121

FORMAL OPEN HEARING TESTIMONY AGAINST AGING SERVICES DIVISION

By: Dianna J. Roberts

February 27, 1996

Page 1 - PART 2

I have, personally, informed Jim McConnell, Director, of Aging Services Division of the following either by direct letter to him and Carol Rex, Deputy Director, or via cc's of letters to Jean DeMaster.

Unfortunately, he has failed to address, or inquire further details from me, any the issues I cited in those letters over the past few months.

- 1) The Adult Care Home Manager, Jean DeMaster has lied to providers at the monthly Provider's Meetings.

Has accepted gifts otherwise known as bribes.

Has been unfair in her Administrative Conference decisions, when overwhelming testimony and evidence was presented.

Participated in conspiring (a federal offense) and collusive tactics against me at a conference on June 26, 1996.

Is completely out of touch with the providers she is responsible for "managing" and doesn't even receive her own mail.

- 2) The Sanctions Specialists working for the Adult Care Home Program is an ATTORNEY, who has a substantial number of complaints under investigation against her registered with the Oregon State Bar.

HAS BEEN INSTRUMENTAL; AND, IN FACT SIGNED MY REVOCATION LETTER EVEN THOUGH IT IS COMMON KNOWLEDGE SHE IS NOT AN UNBIASED PARTY. (INSTRUMENTAL, AS IN PUTTING THE WHOLE PACKAGE TOGETHER AND "CALLING ALL THE SHOTS".)

Who hourly misrepresents herself in the course of the day in her dealings with other attorneys and providers BY NOT INFORMING EVEN ATTORNEYS THAT SHE IS, IN FACT, AN ATTORNEY, HERSELF.

Who demonstrates blatant discrimination against the colored race known to refer to them as 'nigger': a word unbecoming a lady let alone a member of the Oregon State Bar, and refused them access to the public files in the AFH office lobby.

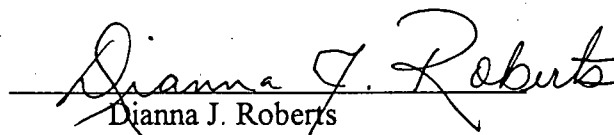
- 6) Mr. McConnell has, personally, slandered my reputation by phoning at least one of my resident's family members and telling them, "I was a very abusive caregiver." While explaining to another family member that, "I was not that bad of a home, he you just wished I'd quit writing letters."
- 7) A member of the Aging Services Division, staff, Betty Lowery, phoned a person attempting to lease my home and intimidated her into withdrawing her application package, which she had presented for approval. This person and I had signed all papers necessary for her to take over the operation of my home and has been a licensed Adult Foster Care Home provider for a number of years. I have been advised by counsel that this phone call by your staff constituted Tories Interference in Business Relations. It is rumored that this individual was dismissed from her former private employer for misappropriation of funds, which would seem to me to make her ineligible for employment with Multnomah County
- 8) You have also **CONDONED AND PROVIDED STAFF** to facilitate the building of unneeded publicly subsidized nonprofit adult foster care homes and insured immediate 100% full occupancy prior to completion at substantially higher service rates than being paid to the currently licensed private AFHs. (Private homes are currently operating with a 30-40% vacancy rate.) Actual ownership of these homes is being questioned. It, currently, seem apparent member, or former member, of your staff is actually the owner of these homes, which present unfair competition to private industry. (The nonprofit status of Elderplace, an even larger Residential Care Facility, is also being questioned at this time, which you and your staff also condoned and facilitated the building of -- further unfair competition for private industry.) Ref: Oregonian 2-13-96, Pg. 3C

And, when I exposed this unfair competition to other foster care home providers, your staff arranged to have me removed from the Portland/Multnomah Commission on Aging to make sure I didn't "expose" any further questionable projects. (Ref: Letter 8/29/95 PMCOA)

Your manager of the Care Home Program refused to allow me to represent my association on the new rules re-write committee even with a letter from the president of the association, Doreene Bryant (9/12/96).

Dianna J. Roberts
February 27, 1996
Page 4

FOR AS MANY YEARS AS I CAN REMEMBER, MR. McCONNELL HAS BEEN
DIRECTOR OF AGING SERVICES DIVISION -- THE PERSON AT THE HELM
OF THE SHIP. HE HAS CONDONED AND/OR IGNORED ALL OF THE ABOVE
VIOLATIONS AND SHOULD BE REMOVED FROM THIS POSITION.


Dianna J. Roberts
19390 N.E. Multnomah Ct.
Portland, OR 97230
(503) 666-9121

~~1~~ limited - 1 old House
Licence - Sanitation Building - Threatened - \$1000
had, already approved Home

I have a fosterdaughter who has lived with us since June of 1987. From the Albertina Kerr Center for Children.

In 1994 we were told that Karen would be transferring over to Aging Services by the summer of 1995.

But they were in some sort of dispute with Aging Services who was not going to renew their contract.

Everything changed over in a few months. Aging Services came in Aug-Sept 1995 to our home at 711 S. 8th, in Dresham.

Judy Fowler Licensing Agent and Robin Wiggins from Developmental Disabilities Services. Karen Spindler is a DD Client, and 36 yrs old.

Aging Services said that our 711 Sth. Home did not meet their regulations, according to the room height & window size of operators bedroom upstairs. Also CSO room not big for 2 children. CSO had problem with it.

After unannounced visit from Bureau of Building of Dresham our downstairs windows weren't big enough after we were told they were OK by Robin Judy and Anna Helton from Sanitation.

B.B. of Dresham said we were also in violation of City Codes and we would be fined in appropriate change as per code. In the upstairs room which was opened up eight yrs before. No else had a problem with it.

Limited
Licence - Hold-
- her checks
- Back -

(Dec 12 -)
Dec 94 - Okayed - Judy Fowler
moved in Feb - 95
New Home -
says in violation

Judy Fowler told us we
have to move downstairs also have
Karen or CSD kids.

We decided move to a different
home and were told by Judy
Fowler that would work great
after she check the place out.

We moved in 2 months later and
was told we were in violation again
for moving into an unlicensed home.

We would be fine and Judy would
hold my checks.

After I agreed to let her back in
my home the fine was suddenly
dropped.

They contacted an attorney
because I was also refused
a variance for Karen's room to
stay with a 3 yrs old girl.
Too much stress on family
members.

(Variance
Refused
spot -
- 1000 for
- licensed -
cause union problems)
on the
Denied for
child together
CSD okayed

Marsha

Chapman

661-4025

1045 N.E. 14th Ln

Gresham OR 97030

Le Cleveland

Rt 18

Liberty Right

2-27-98

AS AN ADULT FOSTER HOME OWNER I BELIEVE NURSING HOMES AND OREGON FAIR SHARE DEFINITELY SHOULD NOT BE MAKING RULES FOR AFH's THE FACT THAT THEY ARE INVOLVED AT ALL SURE TELLS ME WHAT THE STATE /COUNTY INTENDS TO DO TO WITH ALL AFH's. THEY ARE BIASED AGAINST US.

ATTITUDES OF AFH PROGRAM EMPLOYEE'S : WHEN THEY ENTER YOUR HOME. THEY LIKE TO INTIMADATE THE CAREGIVER. THEY DON'T CARE IF IT IS AT MEAL TIME . THEY COME IN; SPREAD THEMSELVES OUT ON THE DINING TABLE AND EXPECT YOU ANSWER THEIR QUESTIONS WHILE YOU ARE TRYING TO FEED YOUR RESIDENTS IN THEIR ROOMS. THEY ARE RUDE AND ARROGANT. THEY HAVE NO COMPASSION OR THOUGHT FOR THE ELDERLY PEOPLE THEY ARE TO PROTECT. THEY SHOW NO RESPECT TO THE CARE GIVER. THEY APPROACH EVERYTHING WE DO WITH A NEGATIVE ATTITUDE. MOST OF THE COMPLAINT SPECIALIST'S ARE ON A POWER TRIP. IF SOMEONE STANDS UP TO THEM WE CAN EXPECT RETALATION IN SOME WAY.

I WOULD LIKE TO SEE COMPLAINTS BE HANDLED LIKE THIS. WHOEVER IS MAKING THE COMPLAINT SHOULD HAVE TO DO IT IN WRITING AND HAVE IT NOTARIZED. THE CAREGIVER AND THE COMPLAINANT SHOULD MEET WITH AN IMPARTIAL MEDIATOR / NOT THE COUNTY OR STATE. THOUGH THEY SHOULD BE REPRESENTED. THAT WOULD CUT DOWN A LOT OF NONSENSICAL CHARGES AGAINST GOOD CARE GIVERS. ALSO THE UNSUBSTANTIATED COMPLAINTS SHOULD NOT BE LEFT IN THE FILE. EVEN OUR JUSTICE SYSTEM DOESN'T LEAVE A CHARGE ON YOUR RECORD IF THE CHARGE IS NOT PROVEN.

CONSTITUTIONAL RIGHTS SHOULD NOT BE TAKEN AWAY FROM CAREGIVERS. WE SHOULD BE ABLE TO FACE OUR ACCUSER. I DON' T MEAN A FRAIL ELDERLY PERSON. BUT THE COMPLAINTS THAT COME FROM FAMILY, FRIENDS, OR SOME IRRIATE PERSON YOU HAD TO FIRE BECAUSE THEY WEREN'T DOING THEIR JOB. WE SHOULD BE ABLE TO FACE THEM.

THE CAREGIVERS SHOULD NOT HAVE TO GIVE STATE /COUNTY PERMISSION TO DELVE INTO PERSONAL ACCOUNTS. WOULD YOU LIKE FOR SOMEONE GOING INTO YOUR BUISNESS. THIS EMPOWER'S GOVERMENT AGAINST US. POWER CORRUPTS / ABSLOUTE POWER CORRUPTS ABSOLUTLY.

Jeanne Duval



Jean DeMaster Response
to Meeting on 2/27/96

MULTNOMAH COUNTY OREGON

AGING SERVICES DIVISION (503) 248-3646
ADULT CARE HOME PROGRAM (503) 248-3000
FAX: (503) 306-5722
421 SW 5TH, ROOM 405
PORTLAND, OR 97204-2221

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN • CHAIR OF THE BOARD
DAN SALTZMAN • DISTRICT 1 COMMISSIONER
GARY HANSEN • DISTRICT 2 COMMISSIONER
TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

Response to the issues raised at the 2/27/96 Meeting between the Rock of Ages Provider Association and the Multnomah County Adult Care Home Program

Meeting Date: 2/27/96 from 1:30 to 4:30

Meeting Place: Aging Services-East Branch: 2900 SE 122nd, Portland

Representing the Rock of Ages Provider Association: Valerie Young, Regional Director and Terry Lee, Assistant Regional Director

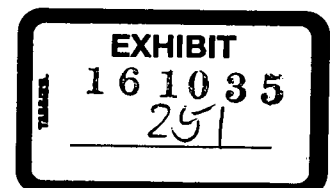
Representing the Adult Care Home Program (ACHP): Jean DeMaster, Program Manager, and Judy Fowler, Betty Lowery, and Doris Mitchell from the ACHP Licensing Staff.

Attendance: In addition to the individuals listed above, there were 18 people who signed the attendance sheet for the meeting. These individuals included members of the Rock of Ages Provider Association, other Providers in Multnomah County, family members and/or residents of Adult Care Homes, and other interested persons.

ISSUES RAISED AT THE 2/27/96 MEETING:

The issues raised at the meeting are underlined. The written responses from the Adult Care Home Program (ACHP) are shown in **bold**.

Disagreement as to whether this was a meeting or a hearing: On 2/11/96, the Rock of Ages Provider Association requested that the Adult Care Home Program (ACHP) hold an open hearing to allow the Rock of Ages Association to present certain complaints and grievances. Jean DeMaster spoke with Valerie Young and agreed to set up a meeting--not an open hearing--between the Rock of Ages Provider Association and the ACHP. The fact that it was to be a meeting with a specific group of Adult Care Home Providers--not an open hearing--was confirmed in writing in a letter from Jean DeMaster to Valerie Young on 2/16/96.



Valerie and Terry insisted that today's meeting should be considered a hearing and that the ACHP had an obligation to advertise this meeting in the newspaper as a Public Hearing. Terry indicated that he felt that the regulations in the Multnomah County Code Section: 8.90.205 applied to this meeting.

Jean indicated that MCC Section 8.90.205 required Public Notice and a Public Hearing if a change in either the Multnomah County Ordinance establishing the Adult Care Home Program or in the Multnomah County Administrative Rules was being formally proposed. Jean indicated that when the new Multnomah County Rules for adult care homes are proposed, then this section of the Code will be strictly followed. However, this Code section would not apply to the meeting being held today as there are no rules changes being formally proposed.

THE FOLLOWING ARE THE ISSUES RAISED BY THE INDIVIDUALS ATTENDING THE MEETING:

I.) The Rock of Ages Provider Association stated that the Adult Care Home Program (ACHP) had violated the constitutional rights of the members of the Association. Terry Lee alleged that in its actions, the ACHP had violated Provider's Rights under the Bill of Rights of the United States Constitution as follows:

Bill of Rights Numbers:

- 1--The right to peaceable assembly
- 4--The right to security in your own home
- 5--The right to face your accuser when charged with a crime
- 6--The right to a fair and speedy trial
- 10-- The right to the pursuit of life, liberty and happiness

The following is the written response from the Adult Care Home Program (ACHP): The Adult Care Home Program has adopted rules that we believe:

- a) uphold and promote the well being and quality of life for the residents of the adult care homes; and
- b) implement state statutes on the care of the elderly in residential settings.

These rules have been reviewed by attorneys both inside and outside of Multnomah County. There is no indication that any of the Multnomah County Administrative Rules (MCARs) for the Adult Care Home Program violate the rights of any individual. These rules have never been challenged successfully on the basis on constitutionality.

Where the Adult Care Home Program can identify rules that in any way violate people's rights, we are ready and willing to make changes. We simply do not agree with the allegations that the Adult Care Home Program has violated any constitutional rights, including those guaranteed under the Bill of Rights.

Adult Care Home Operators are voluntarily engaged in a business which requires government regulation. When an Operator applies for and accepts a license, there is a voluntary agreement that the Operator will conduct business under the provisions of the license. To maintain a license to operate an Adult Care Home, the Operator must agree to adhere to the Multnomah County Code and Administrative Rules for adult care homes.

A different set of rules and penalties apply to violations of criminal law than to violations of Administrative Rules. When someone files a complaint against an Adult Care Home, State Law as well as the Multnomah County Administrative Rules prohibit the County from revealing who filed a complaint. The person making the complaint against an Adult Care Home Operator may be a resident of the home or a family member. Residents of adult care homes depend heavily on the Operators and other caregivers. They are often fearful of retaliation if they complain against the Operator or other caregiver.

II.) The Rock of Ages Provider Association demanded that:

- * a specific employee of the ACHP be fired;
- * all sanctions against Adult Care Homes which involved
that employee be immediately reversed; and
- * the employee issue a public apology.

Valerie Young and Terry Lee indicated that these demands should be met because they had proof that the employee had lied on her application to the State's Board of Nursing. They played a tape recording indicating that the Board of Nursing did not have a record of a person of that name working in the State of Washington. They also indicated that an employee of Multnomah County Disease Control had called Valerie indicating that the employee had required that Valerie be quarantined for a period of weeks because she had been exposed to Hepatitis A.

Written response from the ACHP: The employee is in good standing in the Adult Care Home Program within the Aging Services Department of Multnomah County.

III.) Provider's Rights and Residents Rights have been violated. The example given was that the ACHP moved residents out of an Adult Care Home without the authority to do so.

Response from the Adult Care Home Program: When the care provided to residents falls below the standards required by the Multnomah County Administrative Rules, then the ACHP will act to safeguard the health and welfare of the residents.

If the Adult Care Home Program finds that the residents of an Adult Care Home are in imminent danger, the ACHP will inform the residents and their

family members and/or legal representatives of the situation. The ACHP will offer to help the residents find another place to live. The ACHP may also request that residents move out of a home if there is imminent danger. The ACHP will make every effort to protect, and ensure the safety of, any resident who chooses to stay in an adult care home from which the Adult Care Home Program has advised residents to move.

Residents would be considered to be in imminent danger if conditions in the home jeopardize their life, health, safety or welfare. In such an emergency situation, the immediate relocation of the residents would be justified in addition to possible suspension or revocation of the Operator's license. If the license of Adult Care Home is revoked, the Operator is prohibited from accepting compensation for caring for the residents. The Medicaid Contract between the Provider and the State of Oregon may be revoked as well. If an Operator's license is suspended because there is imminent danger to the residents or if it is revoked, the Operator would be required to have the residents leave the home as the home would not be allowed to have residents.

IV.) An Aging Services Department (ASD) Employee--Laura Olson--appeared on a TV Program on 2/9/96 and said that ASD received 800 complaints regarding Adult Care Homes per month and that one third of those involved abuse of the elderly. Terry Lee indicated that elder abuse is a criminal activity and wanted to know how many of the 800 complaints per month were prosecuted.

Written response from the ACHP: Laurie Olson is an employee of the Aging Service Department (ASD) who responds to phone calls to the County's Senior Help Line. This is a 24 hour Help Line designed to assist Seniors and their families solve the problems which they are facing from housing to legal services to adult day care to health care problems, etc. Laurie indicates that she did appear on TV in early February 1996. During that TV Program, she said that the ASD Senior Helpline received over 800 calls per month. A small percentage of the 800 calls per month involved Adult Care Homes.

Laurie also indicated that elder abuse was one of the three topics most often discussed during Senior Help Line calls. This is not to say that one third of the calls involved elder abuse.

Laurie said that if someone called the Senior Help Line and reported Elder Abuse, then a Protective Services Worker or Risk Intervention Worker would be immediately called to investigate. Laurie did not know what percentage of those cases were prosecuted as Elder Abuse.

V.) Dan Grigoris, the husband of an Operator, spoke next. He indicated that Residents Rights were protected, but what about Provider's Rights? He indicated that the residents had the freedom of movement and the right to privacy. He questioned whether Provider's had those rights. Indicating that

since the basis of the County Rules were the State Rules for Adult Care Homes, he recommended uniform state rules for all counties. He opposed the exception to the State rules which is in effect for Multnomah County and which requires Multnomah County Providers to meet a higher standard, in some cases, than the State would require.

Written response from the ACHP: The Adult Care Home Program (ACHP) is interested in working with Provider Associations to develop strong working agreements which will both ensure safe and healthy living conditions for the residents as well as positive working conditions for the Providers.

The members of the Portland/Multnomah Commission on Aging, as well as staff members of the Aging Services Department, believe that it is important to maintain the County exemption to the State Rules. It is a protection for Multnomah County seniors and people with disabilities and they are able to receive a high quality of services. If there are problems in Multnomah County adult care homes, these problems can be addressed quickly at the local level rather than sending the problems to State Offices in Salem.

VI.) What is the County's Authority to levy fines?

Written response from the ACHP: In 1992, the Multnomah County Administrative Rules were amended to allow the ACHP to levy fines for rule violations. The ACHP has published a fine schedule which indicates the fines for a wide variety of rule violations.

VII.) Linda Shelton, an Operator of an Adult Care Home, spoke next and indicated that she received a warning because a Resident Manager, in one of the Adult Care Homes which she formerly operated, did not chart medication correctly. Linda indicated that she didn't make the error, the Resident Manager in the home did and she fired the Resident Manager. Linda indicated that Pam Steffen, a Multnomah County Contract Nurse, assisted this Resident Manager to get another job. Linda was upset that a Multnomah County Contract Nurse would assist a Resident Manager who had been fired to find another job.

Linda also questioned how Operator's were supposed to pay their bills if the ACHP administered a sanction against them which prohibited them from admitting new residents to their homes. Linda indicated that she had over \$1500 in bills each month and that she couldn't pay her bills unless she could admit residents to her home when there were vacancies.

Written Response from the ACHP: The ACHP staff will have to do additional investigation regarding the allegation that a Contract Nurse assisted a caregiver to find another job in an Adult Care Home after being fired from Linda Shelton's home. The Contract Nurse Program is part of the State Senior and Disabled Services Division and not part of the County's Adult Care Home Program.

The Operator of an Adult Care Home is responsible for all of the

activities in the home and for the actions of all Resident Managers and other caregivers employed in her home. As a result, the Operator is responsible for all rule violations occurring in the home including failure to chart medication.

The ACHP suspended admissions to Linda's home following numerous serious rule violations. After Linda corrected the problems which had been cited, the condition on the license prohibiting her from admitting new residents was lifted.

VIII.) Terry Lee indicated that he believed that the ACHP did not treat Provider's fairly. He cited the situation of Maria Ciobanu who, he said, had her license revoked for having more than 5 residents on just one occasion. Maria is of Rumanian heritage and Terry implied that her heritage was the basis of the ACHP's discrimination against her.

The written response from the ACHP: The ACHP does not revoke licenses for a single rule violation unless that violation is very serious and/or results in death, harm or injury to a resident. In addition, the ACHP does not treat Providers differently based on their cultural heritage. In sanctioning Providers when necessary, each situation is evaluated on its own merits.

Terry Lee has indicated in the past that his mother, Pat Cox, was a Provider who was sanctioned twice for having more than 5 residents, but that her license was not revoked. Terry has alleged that his mother's case demonstrates how Provider's of different cultural heritages are treated differently by the Adult Care Home Program.

The ACHP does not believe that the situations of Maria Ciobanu and Pat Cox are comparable. The Public Record indicates that Pat Cox lost her Adult Care Home License in July 1995 due to her criminal record. The Public Record also indicates that in November 1993, the Adult Care Home License for Maria Ciobanu was revoked due to multiple rule violations including financial exploitation of the residents and having too many residents. The license revocation came after many warnings.

Because both Maria Ciobanu and Pat Cox lost their Adult Care Home Licenses for different reasons, their situations are not comparable. There was no discrimination against either individual. The ACHP treats Providers fairly and objectively. There is no discrimination against certain groups of Providers.

IX.) Terry Lee indicated that he felt that Providers did not receive "due process of law" when rule violations occurred. Terry indicated that his sister, Valerie Young, did not have a hearing scheduled within 30 days as required in the Multnomah County Administrative Rules.

Written Response from the Adult Care Home Program: The Public Record indicates that Valerie Young's license was suspended in October 1995 for multiple rule violations including the improper administration of medication to residents.

The investigation of the allegations against Valerie as the Operator of an Adult Care Home was initiated in September 1995 and the suspension and revocation of her license occurred in October. The investigation was completed in a timely manner.

Initially, Valerie requested a hearing to appeal the suspension of her license. She and her attorney agreed to wait on the hearing on the suspension of her license until the investigation of the issues was completed. Once the investigation report was finished and sent to Valerie, a hearing was immediately scheduled for January 2, 1996. All of the parties involved agreed to schedule just one hearing on the revocation of Valerie's license--rather than two hearings: one on the suspension and one on the revocation. The Hearings's Office set the hearing for 2/23.

Later, this hearing was set over until 3/4 and 3/5 at the request of Valerie's Attorney.

X.) The ACHP employs two attorneys to represent the program: Judy Fowler and Mary Fassell.

Written response from the ACHP: Judy Fowler of the ACHP Licensing Staff is not an attorney and has never indicated that she was an attorney.

The Adult Care Home Program employs a Sanctions Specialist to represent the program in the sanctioning process and at the hearings. There is no requirement that the Sanctions Specialist be an attorney and any employee of the ACHP can represent the ACHP at hearings. Prior to the hiring of Mary Fassell as the Sanctions Specialist, the Program Manager of the ACHP represented the agency in hearings. Mary Fassell is an attorney, but she is not practicing law in her work for the Adult Care Home Program. In her job as Sanctions Specialist, Mary uses her specialized knowledge and training to protect vulnerable residents in Adult Care Homes. If legal representation is required, the Adult Care Home Program requests assistance from the County Counsel's Office. Generally, Katie Gaetjens provides the necessary legal representation.

XI.) The Rock of Ages Provider Association indicated that the records and files of residents who pay privately for their care are confidential and can not be examined by the ACHP staff with out the prior verbal or written consent of the resident or his/her representative. It was suggested that it was a violation of the Multnomah County Administrative Rules (MCARs) for the ACHP Staff to monitor the files of private paying residents.

Written Response from the Adult Care Home program (ACHP): The Multnomah

County Administrative Rules (MCAR), Section 890-020-450, as well as State Administrative Rules, require that the ACHP licensing staff monitor all the records for all of the residents in an adult care home. All resident records are treated confidentially by the ACHP staff in that they can not be shared with individuals outside of the ACHP Staff or others authorized to see them. The MCARs specifically require the ACHP staff to review the records. State laws also authorize review of client records for monitoring and licensing purposes as well as in the investigation of situations in which the residents could face harm or danger, including situations with potential abuse or neglect.

Residents who receive medicaid payments, receive services from a Case Manager and a Contract Nurse--in addition to visits from family and friends. For a private paying resident, if there are no family or friends, there may be no one other than the Licensing Staff who visit the resident or monitor the care received.

XII.) Valerie Young indicated that she had filed a complaint against a home operated by Carol Wiebold. Valerie alleged that although she felt that the claim involved imminent danger, the investigation was not initiated within the two hour requirement. Valerie also alleged that the home was told of the problem before the investigator visited and because of that, the problem was corrected before the investigator could document it.

Written Response from the Adult Care Home Program: The ACHP Complaint Specialist reviewed the complaint when it came in and did not feel that it was imminent danger. Therefore the investigation was initiated within 24 hours--rather than two hours.

To begin the investigation, the Complaint Specialist obtained information from the Case Manager of the resident involved. Based on that information, an investigator went to the home. The investigator was not able to substantiate the allegation. The staff of the Adult Care Home Program did not provide information to Carol Wiebold or any of the staff from the home prior to the unannounced visit which initiated the investigation of the complaint.

XIII.) Valerie alleges that the State and/or County will be operating Adult Care Homes and that Sherry Willmschen from the County's Aging Services Department participated in the development of the State/County funded Adult Care Homes.

The written response from the Adult Care Home Program: Neither the State or the County are operating Adult Care Homes.

There are four homes in Multnomah County which were developed as a partnership between Northwest Housing Alternatives and Metro Adult Foster Care Management. Sherry Willmschen and other staff from the Community Access Program within the County's Aging Services Division provided technical assistance for this project. The project involves the development of four adult care homes in areas of Multnomah County where there are relatively few

adult care homes in relationship to the need for this service. The four homes are designed to serve special needs populations: residents needing behavior management and residents with physical disabilities.

There is also a 162 bed facility which is being developed by Providence Hospital. This project involves financing from the City of Portland and the State of Oregon with grants being received from Multnomah County, the City of Gresham, the State of Oregon, and the Becker Memorial Fund. The County's Aging Services Department is not directly involved with this project.

XIV.) Alan Carpenter, an Adult Care Home Operator, spoke next. Alan indicated that he had no problem with the Adult Care Home Program and that he had been treated fairly. Alan is the Secretary of the Adult Care Providers of Oregon (ACPO) which is another Provider Association. Alan expressed 8 concerns on behalf of himself as well as members of the ACPO:

1) Providers are concerned about the two tests which the ACHP administers--the English Test and the Qualifying Test. Alan asked that, as a college graduate with a BA Degree, could he be exempt from the test?

Written Response from the ACHP: The Columbia Providers Association has asked if the ACHP would discontinue the English Test. The ACHP will discontinue the English Test, although a pre-qualifying and qualifying test will remain. People applying to be new Operators or Resident Managers will take a pre-qualifying test to document the necessary communication skills required in the MCARs. Existing Operators and Resident Managers would take only the Qualifying Test as is required of all Providers statewide. If there were a complaint that an Operator, Resident Manager, or Substitute Caregiver could not speak English, then a "special test" would be administered. The "special test" would include oral and written portions designed to test skills in a potential emergency situation, ability to understand instructions from a doctor or nurse, ability to read written instructions, etc.

2) When an Operator owns more than one adult care home, it is not right that violations in one home effect all of the homes. Each home should be treated separately, and not combined under the Operator's license.

Written Response from the ACHP: The license is held by the Operator who is responsible for the quality of care in all of the homes operated by that person. To ensure that the quality of care remains high in homes where one Provider operates several homes, it is necessary to hold the Operator responsible. Otherwise, serious problems could occur in one home and the staff person would be fired. New staff could be hired, and the problem blamed on the former staff person. Without the Operator as the responsible person, a similar problem could occur with little consequence to the operator, but have a serious impact on the residents. Multiple home owners need to have both the rewards and responsibilities of multiple homes.

3) Alan indicated that a Resident Manager in a home he operates has a conflict with the Licensing Agent; when they see each other it is like cats and dogs.

Written Response from the ACHP: If there is a conflict between an Operator, Resident Manager, or Caregiver and a Licensing Agent, the Operator can discuss the problem with the Adult Care Home Program Manager and appropriate action will result.

4) When an inspection occurs at an Adult Care Home, the attitude of the licenser/monitor should be to help the Operator. Instead, the attitude is to try to find something wrong. This also applies to many kinds of Inspectors, including Building Inspectors. The "attitude of looking for something wrong" often causes conflict between the Operator and the ACHP staff person.

Written Response from the ACHP: The ACHP staff people have to fill several assignments: to safeguard the health, welfare and safety of the residents; to assist the Operator and staff of the adult care home to better serve residents; and to ensure that all MCARs are being met. Sometimes these roles are in conflict with each other. ACHP Staff work to accomplish all three at once.

5) The proposed State Rules are not reasonable. With the proposed bond, insurance, and transportation requirements, it could cost as much as \$10,000 per Operator to implement these.

Written Response from the ACHP: Because of the testimony from Providers and others, the State is again revising their draft of the new rules. It seems likely that the sections on insurance, bonding and transportation will all be revised to clarify the requirements. For example, the intent of the State was that the Operator make transportation available to the resident--not that the Operator would provide the transportation. The new draft of the State Rules should be available in late March.

6) There are two adult foster homes on NE 50th and Killingsworth. One of the residents moved out of one of these homes and into Alan Carpenter's home. He agreed to take the resident for the same rate as was being paid for that resident at the NE 50th/Killingsworth home. Alan has other residents with similar needs. He is frustrated that the rate for the resident from the NE 50th/Killingsworth homes is \$400 per month higher than the rate for residents with similar needs not at the NE 50th/Killingsworth home. He is happy to receive the higher rate for this resident, but rate setting in general is very frustrating.

Written Response from the ACHP: The adult care homes on NE 50th and Killingsworth are operated by Metro Adult Foster Care Management, Inc. which is a non-profit corporation. The homes are not owned by Metro Adult Foster Care Management; they are owned by Northwest Housing Alternatives which is a non-profit organization which develops low cost housing for low income and homeless people. There are two Adult Care Homes on NE 50th and Killingsworth; each has been constructed to provide specific services to residents. For example, the houses are built to provide as much independence as possible to the residents who are likely to wander away from the foster home. There is also additional staffing to assist residents with behavior problems.

In terms of the higher rate in the NE 50th and Killingsworth home, the higher rate was authorized because additional services are being provided to the resident.

7) Why is there no licensing of the people who care for elderly and disabled people in the home of the elderly or disabled person. These people are CEPs--Client Employed Providers--and there is no checking up or licensing for them.

Written response from the ACHP: There is no licensing of people who are employed directly by the elderly person or person with disabilities because these individuals are the employees of the person receiving care or are the employees of an organization, such as the Visiting Nurses Association. The Client Employed Provider is selected by the individual in need, or the representative of that person, to meet the needs of the elderly or disabled person.

8) If an Operator buys a home from another operator, why do the complaints filed against the former operator remain in the file of the new operator? Alan Carpenter indicated that he bought an Adult Care Home from his step mother and the complaints against her as the Operator remain in the file under his name. The complaints were in the file as of January 1996.

Written Response from the ACHP: When an Operator purchases an Adult Care Home, the complaints against the former Operator are taken out of the Public Complaint File. The new Operator is not responsible for the complaints filed against the former Operator. The complaints against the Adult Care Home when it was operated by Mr. Carpenter's step mother should not have been in the Public Complaint File after she closed the home. If they were in the Public File in January 1996, this was a mistake. The ACHP Staff has now made sure that there are no complaints in the Public Complaint File against the former operator of the home which Alan Carpenter now operates.

XV.) Valerie Young said that the ACHP called the Referral Agencies to report problems or violations in adult care homes, indicating that Rick Davison said that Valerie was "blackballed" even though she has not yet completed the hearings/appeals process for the revocation of her license.

Written response from the ACHP: The ACHP does not call any of the Referral Agencies to report any information to them. However, some of the Referral Agencies, including the one operated by Rick Davison, check the Public Complaint file to determine complaints filed against the Operator. The Public Complaint file for Valerie Young shows that her license has been revoked and includes the complaints which lead to the revocation. The ACHP did not report any of this information to any Referral Agency, but the ACHP believes that it is important for Referral Agencies to review the Public Complaint Files.

XVI.) Terry Lee indicated that the ACHP calls the family members of residents to tell them of problems in the adult care homes.

Written Response from the ACHP: If the ACHP finds that the residents in an adult care home are in danger--or at high risk of harm--then the family members of the residents will be notified. In addition, the Adult Care Home Program may suspend the license of an adult care home where the residents are not safe and where their welfare is not being protected. In that situation, the family members will be assisted to move the residents from the home to ensure that they are safe.

XVII.) June Sulfridge identified herself as an individual who operates both an adult care home in Washington County and a Referral Agency which services people in several Counties in the Portland Metropolitan area. June expressed two comments: (1) She indicated that she felt there were severe problems with the new State Rules and she felt that it was unfair that they were being implemented. (2) She also said that she felt there was discrimination and harassment of certain groups of Providers in the three Metropolitan Counties. She said that she had documentation of that in Washington and Clackamas Counties. In Washington County, Providers who were Hispanic--including Filipino--were discriminated against. In Clackamas and Multnomah Counties, Providers who were Rumanian received discrimination.

Written Response from the ACHP: (1) The State Rules have been revised based on the testimony of Providers and others who expressed dissatisfaction with the proposed new rules. The new State Rules became effective on 4/1/96. Because of testimony from Providers, Advocates and others, the State became aware of the problems with the rules which were being proposed in the first few months of 1996. SDSD tried to resolve these difficulties before the new rules became effective.

Multnomah County is also drafting Adult Care Home Rules and these will be implemented in Multnomah County instead of the State Rules. The Multnomah County Rules will be at a standard which is equal to or higher than the State Rules.

(2) Any discrimination or harassment against any Provider should not be tolerated. Every incident of illegal discrimination or of harassment should be reported. This would be especially true if the incident involved an employee of Multnomah County discriminating against or harassing any Operator, Resident Manager, Caregiver, resident, or family member. Every incident of discrimination or harassment will be investigated. If substantiated, appropriate action will be taken against the individual guilty of the illegal discrimination or harassment.

XVIII.) The question was asked: Do Referral Agencies only look at complaints which are substantiated--or do they also consider complaints were either found to be false or unable to be determined true or false.

Written Response: Each Referral Agency has its own policy on this. However, it appears that most Referral Agencies give the most credence to complaints which are substantiated--found to be true. Most Referral Agencies also seem to review the complaints on which a determination can not be made. Some agencies may give some credence to these complaints. In addition, some Referral Agencies look at the complaints which are found to be false. These are given the least amount of consideration.

XIX.) Mettie Hanson indicated that she is no longer an Operator--she is now an advocate. Mettie provided a letter from former Oregon Governor Barbara Roberts commending her for her years of service as an Operator of an Adult Care Home. Mettie indicated that the Adult Care Home Program should give more praise to the Operators and more recognition for their hard work and dedication.

Written Response from the ACHP: The Adult Care Home Program (ACHP) will increase its efforts to recognize all the Providers who are doing such great work in providing care to elderly people and people with disabilities. The ACHP does recognize the amount of hard work it takes to operate an Adult Care Home and is seeking ways to recognize Providers who do a good job, a very good job, and an excellent job. Providers should be recognized for the dedicated service which they provide day in and day out.

XX.) A statement from Jeanne Duval who operates an Adult Care Home was read to the group. Ms. Duval indicated that:

- 1) She did not support the work of Oregon Fair Share;
- 2) Staff from the ACHP were not respectful of the elderly or of the Providers; ACHP staff were rude and arrogant. She felt that the Complaint Specialist at the ACHP was on a power trip. She also felt that if Providers stood up for their rights, they would face retaliation from the ACHP.
- 3) Complaints against Adult Care Homes should have to be notarized and made formally--including the name of the person making the complaint; The Operator should be able to know who made the complaint and talk to the person about it;
- 4) Unsubstantiated complaints should be removed from the Public Complaint file;
- 5) The Operators have a constitutional right to face their accuser: the person who has filed a complaint against them;
- 6) Power corrupts.

Written response from the ACHP: (1) Oregon Fair Share is an advocacy group with a broad mission to improve the quality of life for low income people, including trying to improve services to elderly people and people with disabilities. The Adult Care Home Program acknowledges Oregon Fair Share as a group with an important mission. The Adult Care Home Program did not accept or endorse in any way the report of Oregon Fair Share regarding Adult Care Homes. The ACHP indicated to Oregon Fair Share that, although some of their work was accurate, some of their work was inaccurate and misleading.

(2) All staff of the Adult Care Home Program (ACHP) should be respectful of both the residents of the adult care home as well as the Operator and other staff in the adult care home. ACHP staff should not be rude or arrogant. Any incident of ACHP Staff being disrespectful, rude, or arrogant, should be reported to the Program Manager of the Adult Care Home Program. All complaints against ACHP staff will be investigated and appropriate action regarding staff will be taken.

(3) Residents of Adult Care Homes are very dependent on the staff of the Adult Care Home. As a result, the resident, resident's family, or other person, must be able to make a complaint against the staff of the Adult Care Home without fear that there will be retaliation against the resident. Part of the protection for the resident, is that federal and state laws were written to ensure that the name of the complainant was kept confidential. In addition, barriers to making complaints were removed. For example, many elderly people in Adult Care Homes could not get to a notary to have complaints notarized and if this were a requirement, it would be a formidable barrier to anyone filing a complaint. To protect the resident, there is no "right" which says that the Operator can face the person making the complaint.

(4) On the issue of removing unsubstantiated complaints from the Public Complaint File, the State Law is very clear: This can not be done. The State Law requires that all complaints--those found to be true, those found to be false, and those where the validity of the allegations could not be determined--must be in the Public File. Again, to provide full information to the public regarding Adult Care Homes, the law requires that all complaints be in the Public File.

XXI.) Ms. Sandy McCoog said that the Adult Care Home Program had sent her a letter to deny an application which began: Dear Mr. McCoog. She indicated that this was an inexcusable error. She also said that the letter said that Mr. McCoog's Criminal Record Check indicated that he could not live or work in an Adult Care Home. Ms. McCoog indicated that he is not a caregiver. Ms. McCoog asked what she was supposed to do if her husband could not live in their home if the home was operated as an Adult Care Home. She said that she couldn't spend time with him in another home because she had to be in her Adult Care Home. He couldn't even visit her in her Adult Care Home. Mrs. McCoog said that he husband had a DUII (was convicted of Driving Under the Influence of an Intoxicant) two years ago. He went to a Diversion Program. Ms. McCoog indicated that Betty Lowery was the Licensing Agent.

Betty Lowery was present at the meeting and said that it is likely that the letter in question was addressed to Mr. McCoog--not Mrs. McCoog. If Mrs.

McCoog listed Mr. McCoog as a family member over the age of 18, a criminal record check would be run. If Mr. McCoog had a record with the State Police, the letter would have been sent to inform him that because of his criminal record, he could not live or work in an Adult Care Home. The letter would have been addressed to Mr. McCoog--not Mrs. McCoog. Betty also indicated that if Mr. McCoog had completed a Diversion Program, then it was possible that the charge could be removed from his criminal record. If there were no criminal record, then Mr. McCoog could live in the Adult Foster Home. As long as the charge remained, he could not live in the Adult Foster Home.

Ms. McCoog indicated that when Betty had visited her home, she had placed five items on the Certificate of Compliance (CoC) indicating that they needed to be remedied in the next 30 days. Ms. McCoog signed the Certificate of Compliance (CoC). Then when she received the copy of the CoC in the mail, there were two additional items added to the CoC.

Betty indicated that it was common to add additional items to the CoC once the Licensing Person came back to the office, reviewed the notes from the visit, and documented the findings. Betty agreed that she had added two additional items to Mrs. McCoog's Certificate of Compliance when she was completing her report because these were items which also had to be resolved.

Ms. McCoog asked why Betty had required that folded laundry on a table in the basement had to be removed.

Betty indicted that she thought that the items on the table were piled in the basement near a stairway. Betty said that the items did not appear to be laundry which had been recently washed and dried. The items would have to be removed if they were considered clutter or if they were a fire hazard.

XXII.) Two family members of a resident who in an Adult Care Home operated by Valerie Young testified. Pam Swinguard identified herself as the granddaughter of the resident and the resident's daughter was present as well. These two family members indicated that Valerie took care of their mother/grandmother (in her home on NE 165th, Portland). Whenever either or both of them visited Valerie's home, it was always clean, the residents were clean and usually were sitting on the couch. Valerie was always calm. Valerie's home had been recommended to them by the Aging Services Department. Valerie's home was the third placement--and the other two placements had not been successful. They are very happy with the care which Valerie provides. The granddaughter said that the only reason that her grandmother was not moved from the house on NE 165th was because she moved with Valerie out to her home in Sandy, Oregon. They are happy that their mother/grandmother is now living in Valerie's Adult Care Home in Sandy, Oregon.

Written Response from the ACHP: It is important to know that these family members feel that Valerie is providing very good care for their mother/grandmother. The Adult Care Home Program Staff found significant evidence that the care provided to residents of the Adult Care Home which Valerie operated at 2320 NE 165th Drive, Portland did not meet the requirements set forward in the Multnomah County Administrative Rules (MCARs). The violations of the of the MCARs found at Valerie's home are in

the Public Complaint File and can be viewed by anyone coming into the Adult Care Home Program Office.

Since Sandy, Oregon is not in Multnomah County, the Multnomah County Adult Care Home Program does not have any jurisdiction over this home.

XXIII.) Terry Lee indicated that the Adult Care Home Program had closed 250 Adult Care Homes in Multnomah County in 1995.

Written Response from the ACHP: The Adult Care Home Program closed (revoked the license for) 18 Adult Care Homes in 1995. An additional six homes closed voluntarily when facing serious sanctions.

XXIV.) Bonnie Johnson and a Resident Manager in an Adult Care Home which Bonnie operates were present at the meeting and spoke several times to obtain information and urge people to listen carefully to each other.

XXV.) Linda Shelton spoke again. She and her daughter Becky (age 15) described their situation. They indicated that they were very emotional and angry about the way they have been treated by the Adult Care Home Program (ACHP). They indicated that the ACHP staff were petty and harassed them. For example, in the last two years, she had been cited for rule violations involving clutter and laundry left on a table. Linda said that Annette Potts, a Protective Services Worker, had written a terrible report about her home. She indicated that she felt that the County Staff were too negative. Linda also indicated that she was being "blackballed" by the Referral Agency operated by Rick Davison. Linda complained that the ACHP had suspended the admissions to her home pending her meeting certain conditions. Linda said that Operators were harassed if they tried to stand up for their rights.

Linda also indicated that she suspected that Heather Stewart was not a Registered Nurse and questioned her employment by the ACHP. Linda also complained about Heather's treatment of a resident of Linda's home.

Linda indicated that it was not fair that just because she had a large family, that she could lose her Adult Care Home License.

Written Response from the ACHP: The ACHP tries to work with Operators and other caregivers to both license/monitor the homes and to assist in the process of ensuring that residents receive the highest quality care possible. We understand that in the licensing process, ACHP staff are often concerned with checking on details--such as medication records, documentation of fire drills, the size of the windows in the bedrooms, etc. We understand that this may seem very small scale, but we believe that it is important that each Provider meet or exceed the standards in the Multnomah County Administrative rules. The staff of the ACHP diligently enforce the MCARs. It is important that if there is a rule violation, that it be corrected in the required time

frame.

It is a rule violation if there is clutter in a room which impedes the residents' ability to use the room effectively or could be considered a safety hazard. Much of this is a matter of degree. For example, it is not a problem for clean laundry to be folded on the table which the residents use for their meals. It is a problem if dirty clothes are on a dining room table and prohibit the residents from having a place to eat or being able to converse with each other during a meal.

Annette Potts is a Protective Services Worker. She wrote a report regarding the conditions in Linda's home based on the findings from her visit to the home. Annette described what she saw when she visited the home and her report is in the Public File.

Linda's ability to admit new residents to her home was suspended because of multiple rule violations which could have endangered the residents. After Linda corrected the problems, the suspension on admissions was lifted.

The Adult Care Home Program staff work hard to be supportive in their interactions with Providers. However, our first responsibility is to protect the health, welfare and safety of the residents of the adult care home. In cases such as Linda's where there have been several reports each with multiple substantiated allegations of problems which could endanger the health, welfare and safety of the residents, the Adult Care Home program staff is very careful and diligent in its monitoring and licensing responsibilities.

XXVI.) Terry Lee indicted again that he felt that Maria Ciobanu was a victim of discrimination because she is Rumanian. Her license was revoked for operating an Adult Care Home with more than 5 residents. Terry said another Provider who was not Rumanian, was only fined (twice) for operating with more than five residents. Terry asked that the Adult Care Home Program reinstate Maria's license.

Written Response from the ACHP: It is the strong belief of the Adult Care Home Program that Maria Ciobanu was not discriminated against, by this program, because she is Rumanian. Decisions made regarding her Adult Care Home license were based on her actions as the Operator of the Adult Care Home. Maria's license was revoked in November 1993 for multiple serious rule violations over an extended period of time.

The current Adult Care Home Program rules permit an operator whose license has been revoked to re-apply for a new license after one year. Maria can submit an application for a license if she wishes to do so. The application will be judged on its merits taking into regard her past history as an operator of an Adult Care Home.

XXVII.) Terry Lee also said that Darlean Mathews and Anna Marie Solitaire were discriminated against.

Written response from the ACHP: The Adult Care Home Program does not believe that either Anna Marie Solitaire or Darlean Mathews received discriminatory treatment from the program. Again, the actions taken against these operators were based on the actions of the Operators and the conditions which they allowed to exist in the homes they operated. Specific examples of alleged discrimination by ACHP staff will be investigated, and appropriate action taken, if the allegations are made in writing.

XXVIII.) Dan Grigoris indicated that he spoke on behalf of the Columbia Provider Association. He felt that Rumanian Operators faced discrimination.

Written response from the ACHP: The Adult Care Home Program does not believe that it treats Operators of Adult Care Homes any differently based on their race or country of national origin. Again, specific examples of alleged discrimination by the ACHP Staff will be investigated, and appropriate action taken, if the allegations are made in writing.

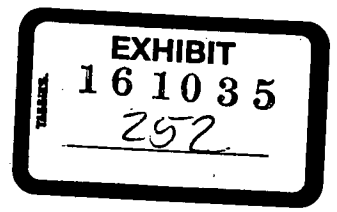
XXIX.) Diana Roberts indicated that she was providing 11 pages of written material to Valerie Young and Terry Lee. This material was not given to the representatives of the Adult Care Home Program at this meeting.

FAX
CONFIRMATION
ALL 11 PAGES

to JEAN 5:40 PM
2/27/96

ON FILE

D. Roberts



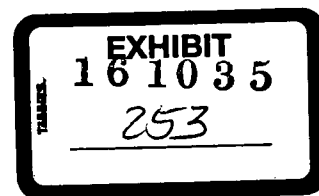
May 21st, 1991

To Whom It May Concern,

When my Mother was
in Elaine Roberts care some
4 yrs ago, she had many
problems with a lady named
Flo. She pulled my Mother's
hair & slapped her for no
reason.

Kathy Wood

Daughter of Kathleen Scott



December 13, 1995

Mrs. Cindy Hannum
Senior & Disabled Services Division
Salem, Oregon

Re: Meeting 12-13-95 with Grover Simmons &
Oregon Providers of Adult Foster Care Homes - Basement Capitol

Dear Mrs. Hannum:

It is my understanding that the purpose for this gathering today is to resolve some issues regarding inconsistent administrating of the rules governing adult foster care homes among other things.

During meetings and phone conversations with you, you have repeatedly informed me that Salem has no authority over Multnomah County. If you will pass this letter and attachments along to Mr. Roger M. Auerbach for me, I would appreciate it. After all his is responsible for the SDSD for Oregon, not just the counties outside Clackamas & Multnomah.

The attached information is very brief, as I has not been invited to attend this meeting until last week. Had I been preparing for this meeting for 3-4 weeks, I could have come up with volumes of information.

- 1) Criminal Investigation Reports - Not returned on a timely basis, if at all. Regarding these 2, information has not yet been received by me, which puts me in the position of working with no help at all -- or working with help, but not in compliance with Multnomah County's Administrative Rules. Attachments 3.
- 2) Violation of my Due Process Rights and MCAR 890-080-330. My attorney requested an Administrative Conference on 3 separate occasions within a 3-month period (copies attached). A letter of revocation was mailed to me on 11-28-95 -- no Administrative Conference.
- 3) ORS 441.605.8 was violated on 2 separate occasions by Mary Fassell photocopying private resident medical records without their written permission. (9/5/95 & 10/17/95.

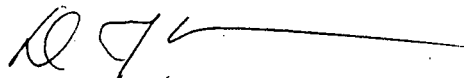
Cindy Hannum
12/13/95
Page 2

I can't go further into the numerous inconsistencies within Multnomah County, that is, if I want to attend the meeting this morning.

I can't express strongly enough how I feel about the state being under UNIFORM REGULATIONS!!!

Respectfully,

ROSEWOOD ADULT FOSTER CARE



Dianna Roberts
19390 N.E. Multnomah Ct.
Portland, OR 97230
666-9121

Attachments (5)

P.S. To be continued.

PERSONAL INFORMATION:

DATE: 7-20-95
NAME: Spruell Velma Elizabeth
LAST FIRST MIDDLE
PRESENT ADDRESS: 2257 SE Hacienda Que Gresham Ore
STREET CITY STATE ZIP
PERMANENT ADDRESS: 97080
STREET CITY STATE ZIP
PHONE NUMBER: (503) 666-1141 SOC. SEC. #: 265-06-7076
STATE NAME AND RELATIONSHIP OF ANY RELATIVES IN OUR EMPLOY: News paper REFERRED BY: New paper

EMPLOYMENT DESIRED:

POSITION: CNA DATE YOU CAN START: ORR SALARY DESIRED: 2400438
ARE YOU CURRENTLY EMPLOYED? yes MAY WE CONTACT YOUR EMPLOYER? DOB 10-26-51
HAVE YOU EVER APPLIED TO THIS COMPANY BEFORE? no WHERE? SS# 265-06-7076 WHEN?

EDUCATION:

SCHOOL	NAME AND LOCATION	GRADUATED		MAJOR SUBJECTS	GPA
GRAMMAR SCHOOL		YES	NO		
HIGH SCHOOL	<u>Montezuma High School</u> <u>Gortez, Colo</u>			<u>11A</u>	
COLLEGE					
OTHER (SPECIFY)					

SUBJECTS OF SPECIAL STUDY OR RESEARCH WORK: _____

SPECIAL TRAINING: _____

ACTIVITIES: (CIVIC, ATHLETIC, ETC.): _____
(EXCLUDE ORGANIZATIONS, THE NAME OR CHARACTER OF WHICH INDICATES THE RACE, CREED, SEX, MARITAL STATUS, AGE, COLOR, OR NATIONAL ORIGIN OF ITS MEMBERS.)

(CONTINUED ON OTHER SIDE)

PROMISED 1 WK Pd VAC.
1/2 of Kaiser Ins Next June

FORMER EMPLOYERS: LIST YOUR LAST FOUR EMPLOYERS, STARTING WITH PRESENT OR MOST RECENT.

DATE MONTH AND YEAR	NAME AND ADDRESS OF EMPLOYER	SALARY	POSITION	REASON FOR LEAVING
FROM	Health Care Services 7400 SW Hunsiker Rd	\$ PER	CNA	420-8485
TO				
FROM	Rest Harbor Care Center E. Powell	\$ PER	CNA	465-1151
TO				
FROM	Pacific Care NW 5th Gresham	\$ PER	CNA	666-5600
TO				
FROM	The Village Care Center 182 SE Powell	PER	CNA	665-0183
TO				

REFERENCES: GIVE THE NAMES OF THREE PERSONS NOT RELATED TO YOU, WHOM YOU HAVE KNOWN AT LEAST ONE YEAR.

NAME	ADDRESS	BUSINESS	YEARS ACQUAINTED
1. Patty Gapprett	174 SE Powell	Rest Harbor RN 463-4911	8
2. Lilley Miller	Hogen Rd	RN	9
3. Bernice New	130 SE Stark	666-5600 RN	8

IN CASE OF EMERGENCY, NOTIFY: Harry J. Spruell NAME
ADDRESS: 2257 SE Hacienda Ave PHONE: 666-1141
I AUTHORIZE INVESTIGATION OF ALL STATEMENTS CONTAINED IN THIS APPLICATION. I UNDERSTAND THAT MISREPRESENTATION OR OMISSION OF FACTS CALLED FOR IS CAUSE FOR DISMISSAL. FURTHER, I UNDERSTAND AND AGREE THAT MY EMPLOYMENT IS FOR NO DEFINITE PERIOD AND MAY, REGARDLESS OF THE DATE OF PAYMENT OF MY WAGES AND SALARY, BE TERMINATED AT ANY TIME WITHOUT ANY PREVIOUS NOTICE.
SIGNED: Helma E. Spruell DATE: 7-20-95

APPLICANT - DO NOT WRITE BELOW THIS LINE

INTERVIEWED BY: 17 yr old dte. DATE: _____
REMARKS: 20 " son sophmore Mt Hood College
Memorial Police works Rotar
shift.
NEATNESS: _____
ABILITY: _____
HIRED: _____ DEPT: _____ POSITION: _____ START DATE: _____ SALARY: _____

APPROVALS:
1. _____ 2. _____ 3. _____
EMPLOYMENT MANAGER EMPLOYMENT HEAD GENERAL MANAGER



FAX: PLS Expedite 306-5722

MULTNOMAH COUNTY OREGON

DEPARTMENT OF HUMAN SERVICES
AGING SERVICES DIVISION (503) 248-3646
ADULT CARE HOME PROGRAM (503) 248-3000
421 S.W. 5TH, ROOM 201
PORTLAND, OREGON 97204-2221

BOARD OF COUNTY COMMISSIONERS
GLADYS McCOY • CHAIR OF THE BOARD
DAN SALTZMAN • DISTRICT 1 COMMISSIONER
GARY HANSEN • DISTRICT 2 COMMISSIONER
TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

A criminal record check is required for all persons age 16 or over who live in or who are involved in an adult care home. Please provide the following information and signatures for all such persons who are responsible for the operation and/or management of, or who are employed by, or who work in, or who live in your adult care home (except non-relative residents receiving care). Also, if any person, besides a non-relative receiving care moves into your home or comes into your home on a regular basis at a later date, this office must be notified immediately and a criminal check must be done.

Please Type or Print Each Name.

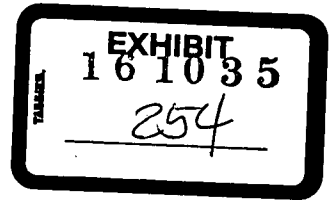
FULL LEGAL NAME (Maiden Name, Previous Married Name, Aliases)	BIRTHDATE AND PLACE OF BIRTH	SOCIAL SECURITY # AND DRIVERS LICENSE #	CRIMINAL RECORD? YES ___ NO ___ STATE: _____
OWNER/OPERATOR <i>Roberts, DIANNA</i>	DOB: _____ CITY: _____ STATE: _____	SS# _____ DL# _____ STATE: _____	YES ___ NO ___ STATE: _____
SPOUSE	DOB: _____ CITY: _____ STATE: _____	SS# _____ DL# _____ STATE: _____	YES ___ NO ___ STATE: _____
MANAGER	DOB: _____ CITY: _____ STATE: _____	SS# _____ DL# _____ STATE: _____	YES ___ NO ___ STATE: _____
OTHER <i>Delma ELIZABETH Spruell</i>	DOB: <i>10-26-51</i> CITY: <i>Cortez</i> STATE: <i>COLO</i>	SS# <i>2165-06-7076</i> DL# <i>2400438</i> STATE: <i>ORC</i>	YES ___ NO <input checked="" type="checkbox"/> STATE: _____
OTHER	DOB: _____ CITY: _____ STATE: _____	SS# _____ DL# _____ STATE: _____	YES ___ NO ___ STATE: _____
OTHER	DOB: _____ CITY: _____ STATE: _____	SS# _____ DL# _____ STATE: _____	YES ___ NO ___ STATE: _____

I authorize the Department of Human Services to obtain information about me from the Oregon State Police and other law enforcement agencies:

Signed: *Delma Elizabeth Spruell* Date: *7-20-95* Signed: _____ Date: _____
Signed: _____ Date: _____ Signed: _____ Date: _____
Signed: _____ Date: _____ Signed: _____ Date: _____

A

May 31, 1995



Betty Glantz, Manager
East Branch - Aging Services Division
Multnomah County
P.O. Box 16633
Portland, Oregon 97216

Dear Ms. Glantz:

Re: Request to reassign contract nurse - Peggy Brewer, R.N.

Confirming your telephone calls of May 23-25, 1995 during which you requested to meet with me to discuss my request for a different visiting contract nurse.

Since this is my second request, I trust you will give it full consideration with an open mind; although you stated, "that you warn me that you do not believe in granting these types of request."

Since the primary basis of my request lies in the belief that Mrs. Brewer has not been completely honest in her reports on my residents and on my home, please provide me with copies of all reports and notes submitted by Mrs. Brewer during her visits over the last two (2) years. Also, please advise how many other providers have requested different nurses, names of those providers, dates of those request, and how they were answered. (Copies of these request will ultimately be required.)

I will require this information prior to our meeting in order to adequately prepare. Please provide these copies within ten (10) days.

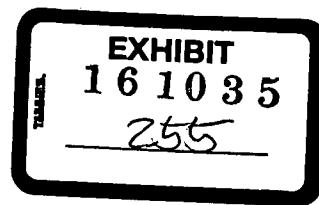
Respectfully,

A handwritten signature in black ink, appearing to read 'D J Roberts', followed by a long horizontal line.

Dianna. J. Roberts

cc: Elaine Castlino, Manager - Portland Impact ✓
George Williams, Atty.

FL0



Pg 67

4/25-94⁵ Flo says Doug pushing her around the VOA and out on the patio yesterday. I phoned Doug to confirm. He said, absolutely not. I also talked with Doug about Flo's noon time pills as she continues to say she is not getting them down there. D.R.

(Volunteers of Amer)

5 PM Doug called back & had checked with every one of the aides & NO ONE had been pushing Flo around in a wheelchair!!! D.R.

During dinner ^{TONIGHT} one of other ladies ask "What did they say" referring to the news on T.V. Flo answered her with "there was a man shooting at cars on Pacific Hwy". What the news really was was they were giving

4/28 tickets to people for going there a yell on caution light in TIGARD D.R.
-28-95 Today Flo came out and ask me where I put her "bible yesterday when I took those pictures out." She had put it in her second drawer of her nightstand where I found it for her. However, this is just an example of how her memory works. Yesterday I had hung pictures on her wall. There were 3 left over without frames. I had ask her what/where she wanted me to put them. They were on her

FLO

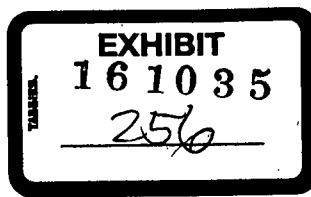
Pg 68

4-28-95

dresser shelf. I remember her picking up her bible 2 days ago to make room for me to set her glass of water. She has in past kept pictures in her bible, but these incidences were days apart & I had never picked up her bible. She did. DR

5-1-95

Caregiver reported asking Flo about some tylenol Flo had in her room. Flo said her sister brought it over. Caregiver stated sister had not been over that day (if fact, sister hasn't been over this YEAR!). Flo stated she brought it AROUND BACK AND handed it to her THROUGH her WINDOW! DR



June 16, 1995

Jim McConnell, Director
Aging Services Division
Multnomah County Oregon
421 S.W. 5th, 3rd Floor
Portland, OR 97204

Z 707 587 542



Receipt for
Certified Mail

No Insurance Coverage Provided
Do not use for International Mail
(See Reverse)

Sent to	Jim McConnell		
Street and No.	421 S.W. 5th Floor		
P.O. Box and Zip Code	Portland 97230		
Postage	\$	38	
Certified Fee		1.10	
Special Delivery Fee			
Restricted Delivery Fee			
Return Receipt Showing to Whom & Date Delivered		1.10	
Return Receipt Showing to Whom, Date, and Address of Addressee			
TOTAL Postage & Fees		\$2.58	
Postmark	JUN 16 1995		

3800, March 1993

Re: Betty Glantz
Manager - East Branch

Thank you for returning my phone call on June 13. Since you indicated you would be out of town until June 19, I took your advice and phoned your assistant, Carol Rex and informed her how Betty Glantz was abusing her authority at East Branch. I am aware your stack of complaints in regard to her management style, not only from other providers, but from her staff as well must be bulging at the seams by now.

She and my case manager, John Chabin, effectively kidnapped one of my residents. This resident has been in my care since April 1, 1989. She is 82 years of age and is incapacitated due to a mental disorder. Her family had been contacted by her attorney and advised that they needed to file for legal guardianship. The family has been in the process of acquiring legal guardianship pending the return of the eldest daughter from Alaska. (Ref: letter dated 5/15/95 - Dr. Theresa Eubanks) I advised John Chabin of this plan when he was out to do the annual evaluation on both of my medicaid residents on 4/18/95.

On June 13, 1995, Betty and John show up at my home alleging my resident had phoned John and told him I was 'kicking her out'. I immediately informed them that that was not true; and that had I wanted this resident to be moved, I would have contacted both him and the family. In my living room in the presence of myself and two (2) of my other residents Betty ask her, "Do you want to stay, or do you want to move?" My resident replied that she wanted to stay. At that point, Betty ask to speak privately with her and John in the bedroom, which they did for all of 2-3 minutes at the very most. John came out and ask me for her medications and in less than 5 minutes they were going down the street clearly violating a good number of her Bill of Rights.

Jim McConnell
Page 2
June 16, 1995

They took her all under the pretense of 'protecting the elderly' and in her best interest without:

- 1) phoning to verify that I was 'kicking her out.'
- 2) contacting the family in advance.
- 3) permission from the family.
- 4) against the family's specific orders 'not to move my Mother.'
- 5) giving me the required written 2-week notice, unless in imminent danger.
- 6) the recommendation or assistance of Protectives Services, whom would have been required to determine 'imminent danger'.
- 7) against the adamant objection of her physician. (Ref: letter dated May 3, 1995 - Dr. Theresa Eubanks.)
- 8) allowing the family adequate time to proceed with guardianship protection.

My resident has told her son (Harry McClane) that they forced her to leave. Behind those closed doors with an incapacitated person what sort of intimidation might they have used? At my dining room table John had encouraged her, "I'm sure Florica will take good care of you." The trauma from this type of treatment may be irreversible. You may safely assume that the family plans to contact the media and is considering legal action.

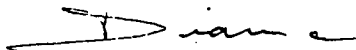
These actions constitute clear and blatant retaliation as a result of my requesting a different visiting nurse. On June 5, 1995, Betty phoned me to advise me she would be granting my request, but in the same breath threatened, "I won't be forgetting this." This request originated 8-10 months ago, and was a tremendous drain on my energy due to the numerous phone calls and letters involved.

Due to this blatant abuse of power and obvious retaliation, I formally request that:

- 1) my resident be returned immediately.
- 2) you demand the resignation of both Betty Glantz and John Chabin, effective immediately.

Respectfully,

ROSEWOOD ADULT CARE HOME



Dianna Roberts
Owner/Operator

P.S. My other residents are asking, "Are they going to take me?"

Post-it Fax Note 7672To *DIANNA ROBERTS*

Company

Location

Comments

661-4763

Telephone #

No. of Pages *1*

From

Company

Location

Fax #

Original
Disposition:

Today's Date

5/11/96

Time

*1030**Lori Eggers*

Dept. Charge

Telephone #

☐ Destroy☐ Return☐ Call for pickup

May 20, 1996

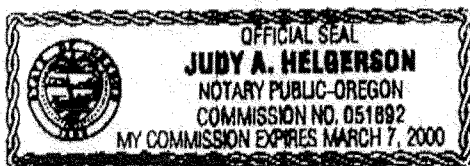
To Whom it May Concern,

My mother, Vivienne Black, was a resident with Dianna Robert's Foster Home from August, 1995 through early March, 1996 as a private pay resident. During that time, it was my observation that she received excellent care. She was warm, safe, nourished and loved by all who came into her life from the time she arrived until I moved her in an attempt to see how she would do in assisted living.

At no time was I concerned for her welfare or safety. A regular problem for my Mom is disorientation as to place and especially time. She would often be up at night, a fact I can verify by frequent phone calls made to me at all hours of the night. This occurred at least weekly, if not more often. In all events, Dianna would have already re-oriented her, assisted her in whatever way was required, i.e. back to bed, and talked with me during those phone calls to reassure us both.

It was obvious that Dianna was also working to individualize care with my Mom. Re-arranging Activities of Daily Living according to Mom's need and requests is just one example.

I found my mother's care to be caring and professional during her stay.

*Judy A. Helgeson*

Thank You,

Lori Eggers RN
Lori Eggers, RN

February 27, 1996

Dear Dianne,

To begin with, I feel you have bent over backwards and done a marvelous job in taking care of my Mom. She is a healthier, clearer person today because of excellent care she otherwise would not have had.

I have to try something for my own peace of mind. After getting so much flack from professionals, my cousin, etc., I must make some kind of attempt to try Mom in assisted living. I will be paying you rent through the end of March, even though Mom will be moving March 3. Because I cannot afford to pay for two locations at once for more than a month, it will, by necessity, have to be my 30 day notice. I am aware Mom's place may be filled after that, even if we might like to return, but finances dictate this plan.

We both have had Mom's best interests at heart and to that end, I'm going to try this move. We'll just have to wait and see for a bit if it is the right or wrong thing to do. I will keep in touch and keep you apprised of her status. Your understanding is greatly appreciated.

Thank You,

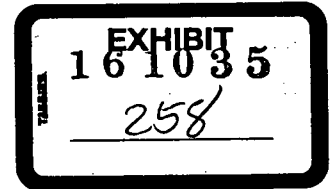
Lani Eggers

#257

1st page received
2nd page rejected

DB

Mr. Laurence Kressel
Multnomah County Counsel
1120 S.W. 5th Ave., Suite 1530
P.O. Box 849
Portland, OR 97207-0849



RE: SHEEN WU

Dear Mr. Kressel:

Yesterday I received a copy of a letter dated April 12, 1996 from Ms. Sheen Wu addressed to Mr. William W. Shatzer, Code Hearings Officer, City of Portland. The purpose of this letter was to forward a copy of a letter to Mr. Shatzer which was addressed to me from Jean DeMaster, Manager, Adult Care Home Program dated April 4, 1996. Ms. Wu signed the letter to me as a Law Clerk from your office. I had never seen the letter Ms. Wu forwarded to Mr. Shatzer prior to yesterday.

During the Appeal Hearing of my Adult Care Home License recently, Ms. Wu took an active role interrogating witnesses for the County. I fail to comprehend Ms. Wu's interest in my Adult Care Home License. It has been reported that she has repeatedly phoned (including evenings and weekends and left numerous messages) the daughter of one of my residents. This resident only recently moved to an Assisted Living Facility. It has become evident to me that the repeated phone calls from staff of Multnomah County Aging Services Division *and your office*, and the continued harassment of my current residents and staff has grossly effected my business to the point of blatantly undermining my ability to continue operating my Adult Care Home.

Often, when one of my residents move, they return to my home upon exploring other alternative housing. In the case of this resident, chances are slim to none, that she would ever consider returning to my home under the circumstances considering the repeated harassment from Multnomah County! As this lady was one of my all time favorite residents throughout eleven (11) years in business, you can well imagine how irate I am over the situation! When you share your home with five (5) other people, it's a rarity to find someone you can enjoy as much as I did this particular lady.

Would you please advise me Ms. Wu's position in your office; and, also, why her interest in my Adult Care Home.

Respectfully,

ROSEWOOD CARE, INC. (Est'd. 1985)

Di Roberts

DIANNA J. ROBERTS
OWNER/OPERATOR

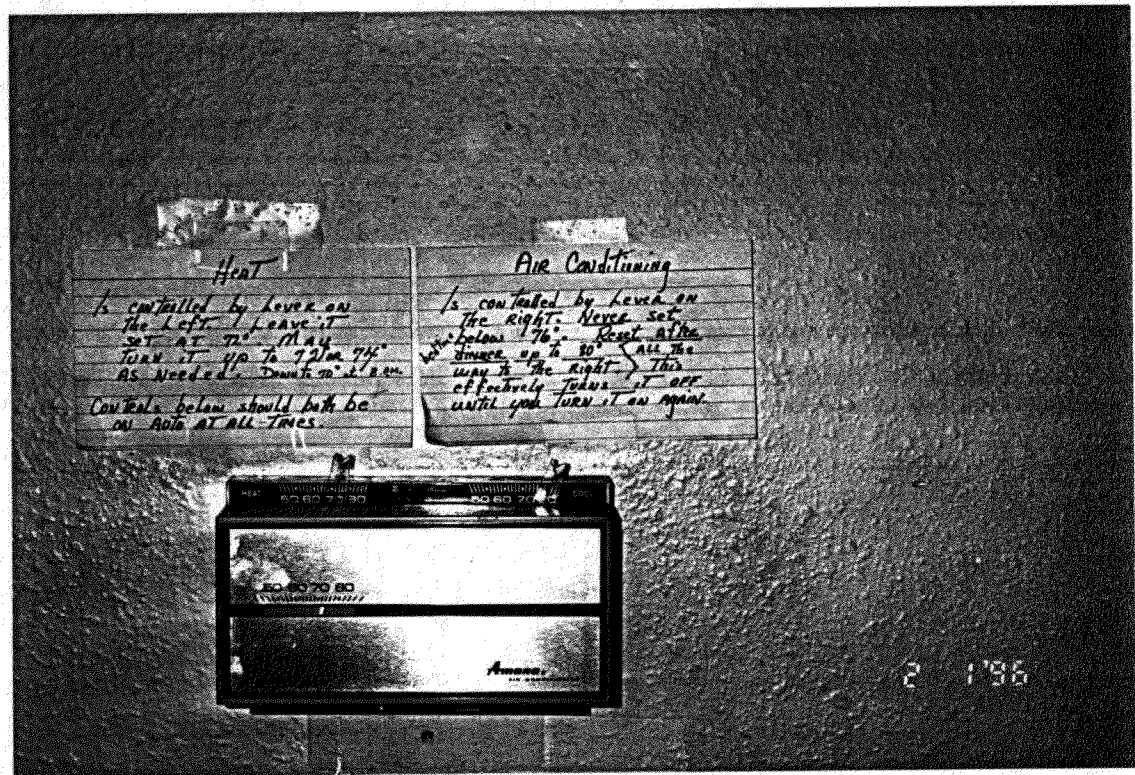
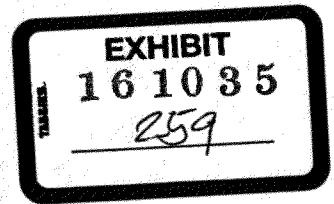
cc: Mr. W. W. Shatzer

Ms. Eggees STATED she FELT Ms. Wu wanted her to tell false things about my home.
DR

Eggee's Daughter

Lori

Sheen Wu - Lori Eggees



Reviewed by:

MEDICATION SHEET

STARTING DATE

11/15/95

1 of 2

ENDING DATE

12/14/95

** means DON'T CRUSH MED

LANOXIN 0.125mg

po 1 tablet every day

09/12/95

PULSE :

GLYNASE 1.5MG PRESSTAB **

po 1 tablet every morning

09/12/95

FERROUS SULFATE 5gr

po 1 tablet every day with
breakfast

RED TABS ONLY

09/12/95

VERELAN SR 120mg **

po 1 capsule every day

09/12/95

SELSUN shampoo

shampoo twice weekly

10/02/95

LASIX 40mg

po 1 tablet every day

10/27/95

MICRO-K-10 EXTENCAPS **

po 1 capsule every day

10/27/95

PREDNISONE 10mg

po 1 tablet every day

11/03/95

AZHACORT inhaler

inhale 4 puffs two times daily

09/12/95

PHONE

PHONE STATUS

Generic Meds may be Substituted

BIRTHDATE

00/00/00

AGE

FACILITY CODE

ADMISSION NO.

ADMISSION DATE

08/17/95

MONTH/YEAR

November 1995

ROOM

BED

PATIENT

EXHIBIT

161035

260

MEDICATION SHEET

STARTING DATE 04/15/95

ENDING DATE 05/14/9

1 of 2

**** PLEASE DON'T CRUSH MED**

LANOXIN 0.125mg
po 1 tablet every day

09/12/95

PULSE :

GLYNASE 1.5MG PRESSTAB **

po 1 tablet every morning

09/12/95

FERROUS SULFATE 5gr

po 1 tablet every day with
breakfast

***FED TABS ONLY**

09/12/95

VERELAN SR 120mg **

po 1 capsule every day

09/12/95

SEL SUN shampoo

shampoo twice weekly

10/02/95

MICRO-K-10 EXTENCAPS **

po 1 capsule every day

10/27/95

PREDNISONE 10mg

100 1 tablet every day

11/03/95

ASIX 40mg

1 tablet every day

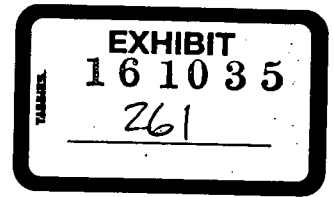
12/11/95

AZMACORT inhaler

inhale 4 puffs two times daily

09/12/95

ALLERGIES



**THIS LOG OF VISITORS TO MY HOME FROM AGING SERVICES
DOCUMENTS HOW VISITS OF RETALIATION AND HARASSMENT INCREASED
AFTER THE EAST BRANCH MANAGER AND CASE MANAGER REMOVED
FLONNIE McCLANE FROM MY HOME IN JUNE 1995.**

Dianna J Roberts
Dianna Roberts

5-21-96

1995 LOG OF AGING SERVICE DIVISION STAFF VISITORS

My log of Aging Services Division staff visitors this year reads as follows:

1/10/95	-	Peggy Brewer	R.N., County Contract Nurse
2/28/95	-	Peggy Brewer	R.N., County Contract Nurse
March	-		First telephone request to Bunny Harrold for a qualified geriatric/psychiatric nurse. MARY FASSELL advised Bunny I could not refuse entrance to any nurse and refused to reassign me a new nurse for Flonnie McClane.
3/22/95	-		Testified before Subcommittee on Human Resources FOR HB 2563. JIM McCONNELL was present testifying AGAINST HB 2563. Originally planned for HB 2877. The purpose of my testimony was to eliminate the Multnomah County Regulations allowing "uniform" state regulations.
4/7/95	-	Doris Mitchell	Temporary Staff Visitor
4/18/95	-	John Chabin	Medicaid Residents Case Manager (Alleging it was time to do the annual 360 evaluations. However, to date, I have not received the resulting 512, which is <u>normally</u> sent to me for my signature of approval of the annual service payment.)
4/19/95	-	Peggy Brewer	R.N., County Contract Nurse. Increased visits to 30-day, and so chartered.
5/4/95	-	John Chabin	To discuss with Flo about moving.
5/4/95	-		(Reference letter to Jean DeMaster 5/4/95 - sent Certified Mail, Return Receipt Requested. Requested Administrative Conference re substantiated complaint that I had borrowed \$5-\$10 for groceries from Flonnie McClane. This letter never reached Jean until after I telephoned Jean after which 30 days had elapsed without a response. It

was located on **MARY FASSELL'S** desk. A conference was held on 6/22/95 with Flonnie's daughter and eldest daughter's husband present in my behalf. **NOTARIZED AFFIDAVITS** from all five of my residents indicating I, nor anyone else, ever borrowed monies. The outcome of this conference was "they refused to allow the complaint investigation to be reopened." My public file reads that I borrowed monies (no dollar amount indicated) from residents or resident. A copy of this taped conference was provided to my attorney by **MARY FASSELL**; however, it was substantially edited.

5/11/95 - Becky Tripp

Intake Case Manager to assess Verna Rogers for a service rate as she had ran out of private funds.

5/15/95 -

Second request for a new nurse. (Reference letter to Bunny Harrold - 5/15/95, Certified Mail, Return Receipt Requested.)

5/17/95 - Tom Glenn

Ombudsman - visited with Flonnie McClane and discussed the allegation by Flonnie that I had borrowed monies from her (\$5-\$10) for groceries. This complaint stands on my record as **SUBSTANTIATED** even though Flonnie indicated to Tom at this time that neither I nor anyone else living or working in my home had borrowed monies from her. I appealed this complaint to Jean DeMaster on June 22. She refused to allow the complaint to be reinvestigated.

5/25/95 - Doris Mitchell

Routine Staff Visit--mentioned that she had specifically wanted to talk to Flonnie, but she was out for the day at the Volunteers of America Day Center, where she took a taxi two times a week.

6/13/95 - Betty Glantz

Manager, East Branch.

6/13/95 - John Chabin

Case Manager

Glantz and Chabin show up at 1 p.m. and stated that

Flonnie had called saying I was kicking her out. I asked why they did not attempt to verify this with me or her family, before they **BOTH** drove out. They took Flonnie out after some discussion and Flonnie doing a lot of crying, even though Flonnie last indicated she did not want to move before they asked to talk to her privately in her room--five minutes later they were going out the door with her clothes in my laundry basket! I showed both John and Betty the Psychiatric Nurses report from 1988. They both read it and Betty asked John if he had read Flonnie's Case History. He stated he had not.

6/21/95

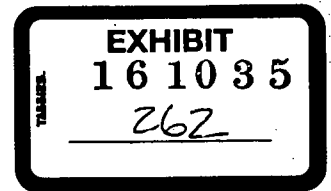
(Senator Lim contacted Jim McConnell)
(Senator Lim intervened at my request regarding the inappropriate move of Flonnie McClane. He (or his aide) telephoned **JIM McCONNELL** to inquire about the situation. The following log of visits documents a pattern of escalated visits from Multnomah County Aging Services Division, which amount to intimidation and harassment by them increasing their usual visits from one (1) person at a time to two (2), as well as increased frequency.)

6/30/95	-	Carole Isaman	My Licensing Agent - Annual License Inspection
6/30/95	-	Annette Potts	Protective Services
7/7/95	-	John Chabin	Chabin brought Flonnie back.
7/14/95	-	Annette Potts	Protective Services. Visited only with Flonnie.
7/26/95	-	Annette Potts	Protective Services. Potts brought Seaman
7/26/95	-	Nancy Seaman	out to introduce her to me as Flonnie's <u>new</u> Case Manager. Annette stated Nancy was not familiar with the area and needed assistance finding my home. I understand Annette and Nancy had lunch together prior to coming to my home to <u>bring her current</u> on the situation. Nancy is a long-time employee of ASD. I find it doubtful that she needed assistance "finding" my home.

8/8/95	-	Judy Hubbard	R.N., County Contract Nurse
8/8/95	-	Rosalyn Crocker	R.N., County Contract Nurse
8/10/95	-	Melinda Maxwell	Protective Services
8/10/95	-	Annette Potts	Protective Services (tape recorded three complaints by Flonnie)
		8/13/95	(Sent Flonnie to Providence Hospital for evaluation as she hit my caregiver in the stomach and face giving her a bloody nose. The hospital called later that evening wanting me to take her back into my home--I refused on the basis that I had repeatedly requested a psychiatric evaluation and had not received one.)
8/18/95	-	Annette Potts	Protective Services
8/18/95	-	Doris Mitchell	Staff Visitor (investigating police report from Flonnie that I was withholding food and not providing care--taped)
9/5/95	-	Mary Fassell	ASD Sanctions Specialists and licensed attorney.
9/5/95	-	Melinda Maxwell	Protective Services. Photocopied ALL my residents' records (that were not locked--mostly 1995 records). A violation of ORS 441.605.8.
9/12/95	-	Rosalyn Crocker	R.N. - County Contract Nurse
9/12/95	-	Judy Hubbard	R.N. - County Contract Nurse
10/2/95	-	Sharon Kush	Senior Case Manager to evaluate/assess Pauline St. Germaine for assistance, as her private funds were running out.
10/17/95	-	Melinda Maxwell	Protective Services
10/17/95	-	Annette Potts	Protective Services
10/17/95	-	Mary Fassell	ASD Sanctions Specialists and licensed Oregon State Attorney. Again photocopies all available records - 9:15 a.m. to 10:45 a.m. Violation of ORS 441.605.8 a second time.
10/26/95	-	Rosalyn Crocker	R.N. - County Contract Nurse
10/26/95	-	Judy Hubbard	R.N. - County Contract Nurse

11/9/95	-	Doris Mitchell	ASD Staff Visitor
11/9/95	-	Tom Glenn	ASD Staff Visitor
11/27/95	-	Rosalyn Crocker	Multnomah County Contract Nurse
11/27/95	-	Judy Hubbard	Multnomah County Contract Nurse
11/30/95			(Received Letter of Revocation of my License to operate an Adult Foster Care Home. Number of visitors immediately decreased from two (2) persons at a time to just the usual one (1). If the facts outlined in the Letter of Revocation signed by MARY FASSELL were true, that the "health, safety and welfare of my residents were in danger," it would seem they would continue their monitoring with two (2) persons at a time.)

12/7/95	-	Doris Mitchell	ASD Staff Visitor. (Visit was to see if I had complied to the recommendations of Carole Isaman on 6/30/95. These recommendations were handled and copies sent to Carole Isaman, Certified Mail, Return Receipt Requested on 7/15/95. It appears that nothing sent Certified Mail, Return Receipt Requested gets past MARY FASSELL'S desk. I have had this experience with addressing correspondence to Jean DeMasters--30 days later I have called to follow up on correspondence. It was found on MARY FASSELL'S desk. Had I not called, I wonder if Jean would ever have gotten her mail.)
12/14/95	-	Doris Mitchell	ASD Staff Visitor. Routine visit.
12/14/95	-	John Chabin	Case Manager - introduced Bruce as new case manager for two of my three Medicaid residents. To complete annual 360 assessments.
12/14/95	-	Bruce Lloyd	Case Manager
12/21/95	-	Doris Mitchell	ASD Staff Visitor. Routine visit.



Private Investigations

(503) 631-7747 • Fax (503) 631-7720 • P.O. Box 468 • Clackamas, Oregon 97015-0468

March 5, 1996

Rosewood Foster Care
19390 N.E. Multnomah Court
Portland, OR 97230

Attention: Ms. Dianna Roberts

Re: Ollie Mae Holyfield, Betty Jane Thomas
and Lucille Alice Salmeier
Our File No. P-883

Dear Dianna:

As you requested, we performed background investigations on Ollie Mae Holyfield, Betty Jane Thomas, and Lucille Alice Salmeier. As we discussed with you, I am at this time submitting our findings up to this point.

OLLIE MAE HOLYFIELD

AKA: Ollie Holyfield Rust, d.o.b. 9-9-27, SS # 549-34-5889 issued in California.

Ms. Holyfield has a history of lawsuits and deceitful or antagonizing behavior toward her former landlords and roommates.

1. Diane Shoemaker rented a room to Ollie. She stated that "Ollie was a drunk. She drank almost every night. She walked around in her see-through nightie. Maybe into incest?" On one occasion, Shoemaker saw Ollie's granddaughter come out of the bathroom completely naked. Ollie told her granddaughter "not to put her nightgown on; she wanted to look at her". Shoemaker thought this was very unusual. She stated that "Ollie was impossible to get along with". Ollie went around to Shoemaker's neighbors bad-mouthing Shoemaker. Shoemaker rented Ollie a single bedroom. Soon after Ollie moved in, she then moved in her two grandchildren, a girl around 12 years (a big, heavy girl, 150 lbs.) and a boy around 2 years.

On her application for a room dated 7-24-92, Ollie claimed to be a cook at a day care center in Milwaukie. She listed her age as 65 years, prior residence of 1.5 months at 4815 S.W. 38th Place, Portland, OR, telephone 452-0399. This phone number now goes to a company called Alpha Engineering. A past employer listed was the Hyatt Regency Hotel in Phoenix, AZ, telephone 252-1234. Personal

Ms. Dianna Roberts
Rosewood Foster Care
Re: Holyfield, Thomas and Salmeier
March 5, 1996
Page 2 . . .

only 24RS-

reference given was a daughter, Glorie Sowell, N.E. 45th, Portland, OR (not the daughter with the kids); also Nancy Erdnen, 254-1169; and Gail, 257-4141/message phone. A Cindy and Rob moved Ollie into the room; Shoemaker did not know their last name(s).

On 1-5-96, we spoke with Delores in Human Resources at the Hyatt Regency Hotel in Phoenix, AZ, telephone 602-252-1234. She has only been in this position for the last 2 years. Holyfield was employed there from 3-90 to 3-92. She was a banquet server. Delores had no record of any lawsuits filed by Holyfield against the Hyatt Regency.

A search of the Maricopa County, Arizona, court records revealed only one lawsuit for Ollie Holyfield or Ollie M. Rust. Case #DR-246189 was filed 9-3-86. It was a divorce matter filed by Philip F. Rust against Ollie M. Rust. Ollie Rust's address was 4640 W. Keim Drive, Phoenix (Glendale), AZ.

2. On 1-3-96, we talked with Roland E. and Lucille M. Sivyer, 14000 N.W. Newberry Road, Portland, OR, telephone 286-3865. The Sivyers rented a residence to Holyfield and were sued by her when she was injured while living in their rental (see #1, below).

We spoke mostly with Lucille. She told us that Ollie "lies through her hat, is on drugs, lives with whomever - usually her mother". The Sivyer's attorney is Norman Lindstedt of Lindstedt & Buono, 200 S.W. Market, telephone 222-6881. They gave us their permission to speak with Mr. Lindstedt to see if he could be of any help.

Lucille stated that Linda Rudnik, Ollie's attorney, was "very good". Lucille said that Ollie "is the devil herself. She is an attractive person and can put up any face she wants. She is sweet and innocent one minute and a witch the next. She lied all the time. She said she fell down the stairs and hurt herself. She also said she fell up the stairs. Ollie got over a million dollars and our insurance was only \$300,000. We had to sell our 2 homes."

The co-defendant in this lawsuit was American States Insurance. Gary Norris defends for them.

One 1-5-96, we called Norman Lindstedt. We left a message because he was in arbitration. We talked with him on 1-8-96. He said that Norris would have more information than he would and that he did not have any helpful information. If he had anything, he said he

Ms. Dianna Roberts
Rosewood Foster Care
Re: Holyfield, Thomas and Salmeier
March 5, 1996
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would have used it in his defense. He said we knew more about her than he did. He personally thought that Ms. Holyfield was bogus. He said we are welcome to look over his file if we want. Just call and give him a little notice.

An statewide search of Oregon court records, county-by-county, revealed files only in Multnomah County on Holyfield:

Multnomah Criminal Court:

1. #D-Z105865 -- Violation of Maximum Speed on 9-17-92 by Portland Police; convicted. Address: 3614 N.E. 45th, Portland; Arizona driver's license #549345889; d.o.b. 9-9-27; 5'2", 130 pounds, Caucasian; car plate ELP-287.

Multnomah Civil Court:

1. #92-0603822 -- Civil Personal Injury lawsuit filed 6-9-92. Plaintiffs: Ollie M. Holyfield, Cynthia Holyfield, and Cynthia Holyfield as guardian for 2 minor children. Defendants: Roland E. and Lucille M. Sivyer. Re: Common Law Negligence, Residential Landlord Tenant Act. Settled/dismissed 6-17-93.
2. #92-S780026 -- Small Claims suit for \$150 filed 10-21-92 by Holyfield against Diane Shoemaker of 4526 N.E. 75th, Portland 97218, telephone 253-1622. Holyfield's address: c/o Diane Roberts 19390 N.E. Multnomah Court, Portland. Dismissed.
3. #93-S798453 -- Small Claims suit for \$1200 filed 10-7-93 by Holyfield against Diane Roberts. Holyfield's address: 2500 S. 208th, Seattle, WA 98198. Dismissed 2-94 when Plaintiff did not appear.

Holyfield possibly worked at Heartland Senior Foster Care, 14406 164th Place S.E., Renton, WA 98059, telephone 206-235-5080, in October 1995.

BETTY JANE THOMAS

d.o.b. 7-1-39, SS # 542-42-9009, lives at 2418 S.E. 87th, Portland, OR 97216.

Ms. Dianna Roberts
Rosewood Foster Care
Re: Holyfield, Thomas and Salmeier
March 5, 1996
Page 4 . . .

A statewide county-by-county search of Oregon court records revealed no lawsuits involving a Betty Jane Thomas.

LUCILLE ALICE SALMEIER

d.o.b. 1-3-28; SS # 543-20-4804 issued in Oregon; 5'10", 200 pounds; telephone 503-663-5480.

No court records were found in Oregon for Lucille A. Salmeier. Her ODL # 1493000 was issued at 30607 S.E. Jackson Road, Gresham, OR 97030. She has one vehicle registered with Oregon DMV: SXL-684, a 1963 Dodge 2-door, registered at the Gresham address.

Multnomah County tax records show that she owns the single family home at 30607 S.E. Jackson Road in Gresham, valued at \$98,300.

We spoke with her past employers, Joanie and Ed Obrist, 663-6801. Mr. Obrist stated that he did not have any information to share with us, and we should speak with his wife. We did not talk with Mrs. Obrist.

Sincerely,

WINDWALKER PRIVATE INVESTIGATIONS

Kyle

Kyle G. Irwin

/pb✓
enclosures

FORMER EMPLOYERS (LIST BELOW LAST THREE EMPLOYERS, STARTING WITH LAST ONE FIRST).

DATE MONTH AND YEAR	NAME AND ADDRESS OF EMPLOYER	SALARY	POSITION	REASON FOR LEAVING
FROM 7 years TO 1972 FROM 1972 TO 1975	Hyatt Regency Hotel 1122 2nd St. Phoenix, Ariz.	app 1500 with tips	BANQUET	Broke my Wrist FOOT
FROM about TO 1 year FROM 1975 TO 1976	Lorraine Spencer 6224 W. MARIPOSA VENNITA LARSON 374 Dorothy Ave	\$500 Phoenix AZ \$9000 per day	Caregiver ph (602) 846-4904	moved She got well

WHICH OF THESE JOBS DID YOU LIKE BEST?

Ventura, Ca. 93003 phone - 642 4453

WHAT DID YOU LIKE MOST ABOUT THIS JOB?

REFERENCES: GIVE THE NAMES OF THREE PERSONS NOT RELATED TO YOU, WHOM YOU HAVE KNOWN AT LEAST ONE YEAR.

NAME	ADDRESS	BUSINESS	YEARS ACQUAINTED
1 Gloria Sowell	3614 N.E. 45th Portland, Or	ph. 288-3434	Daughter.
2 Nancy	ph - 254 1169		
3			

THE FOLLOWING STATEMENT APPLIES IN: MARYLAND & MASSACHUSETTS. (Fill in name of state)
IT IS UNLAWFUL IN THE STATE OF _____ TO REQUIRE OR ADMINISTER A LIE DETECTOR TEST AS A
CONDITION OF EMPLOYMENT OR CONTINUED EMPLOYMENT. AN EMPLOYER WHO VIOLATES THIS LAW SHALL BE
SUBJECT TO CRIMINAL PENALTIES AND CIVIL LIABILITY.

IN CASE OF
EMERGENCY NOTIFY

Gloria Sowell
NAME ADDRESS PHONE NO.
Signature of Applicant
Gady Holyfield 452-0399

"I CERTIFY THAT THE FACTS CONTAINED IN THIS APPLICATION ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE AND UNDERSTAND THAT, IF EMPLOYED, FALSIFIED STATEMENTS ON THIS APPLICATION SHALL BE GROUNDS FOR DISMISSAL.
I AUTHORIZE INVESTIGATION OF ALL STATEMENTS CONTAINED HEREIN AND THE REFERENCES LISTED ABOVE TO GIVE YOU ANY AND ALL INFORMATION CONCERNING MY PREVIOUS EMPLOYMENT AND ANY PERTINENT INFORMATION THEY MAY HAVE, AND RELEASE ALL PARTIES FROM ALL LIABILITY FOR ANY DAMAGE THAT MAY RESULT FROM FURNISHING SAME TO YOU.
I UNDERSTAND AND AGREE THAT, IF HIRED, MY EMPLOYMENT IS FOR NO DEFINITE PERIOD AND MAY, REGARDLESS OF THE DATE OF PAYMENT OF MY WAGES AND SALARY, BE TERMINATED AT ANY TIME WITHOUT PRIOR NOTICE AND WITHOUT CAUSE."

DATE June 18-92 SIGNATURE Ollie M. Holyfield

DO NOT WRITE BELOW THIS LINE

INTERVIEWED BY

DATE

REMARKS:

NEATNESS

ABILITY

HIRED: ☐ Yes ☐ No

POSITION

DEPT.

SALARY/WAGE

DATE REPORTING TO WORK

APPROVED: 1.

2.

3.

EMPLOYMENT MANAGER

DEPT. HEAD

GENERAL MANAGER

This form has been designed to strictly comply with State and Federal fair employment practice laws prohibiting employment discrimination. This Application for Employment Form is sold for general use throughout the United States. TOPS assumes no responsibility for the inclusion in said form of any questions which, when asked by the Employer of the Job Applicant, may violate State and/or Federal Law.

Olie 253-1622 (Deane) landlord
774-7605-?

APPLICATION FOR EMPLOYMENT
(PRE-EMPLOYMENT QUESTIONNAIRE) (AN EQUAL OPPORTUNITY EMPLOYER)

PERSONAL INFORMATION

DATE 6-18-92

NAME Holyfield Olie M. SOCIAL SECURITY NUMBER 549-34-5889

PRESENT ADDRESS 4815 SW. 38th place PORTLAND, OR 97221

PERMANENT ADDRESS Same

PHONE NO. 452-0399 291-7818 ARE YOU 18 YEARS OR OLDER? Yes ☒ No ☐

ARE YOU EITHER A U.S. CITIZEN OR AN ALIEN AUTHORIZED TO WORK IN THE UNITED STATES? Yes ☐ No ☐

EMPLOYMENT DESIRED

POSITION Care Giver DATE YOU CAN START Now SALARY DESIRED

ARE YOU EMPLOYED NOW? NO IF SO MAY WE INQUIRE OF YOUR PRESENT EMPLOYER?

EVER APPLIED TO THIS COMPANY BEFORE? NO WHERE? WHEN?

REFERRED BY New Paper

EDUCATION	NAME AND LOCATION OF SCHOOL	*NO OF YEARS ATTENDED	*DID YOU GRADUATE?	SUBJECTS STUDIED
GRAMMAR SCHOOL	<u>DOSPALOS High</u>	<u>4</u>	<u>yes</u>	
HIGH SCHOOL	<u>DOSPALOS, CALIF.</u>			
COLLEGE				
TRADE, BUSINESS OR CORRESPONDENCE SCHOOL	<u>NONE</u>			

GENERAL

SUBJECTS OF SPECIAL STUDY OR RESEARCH WORK

SPECIAL SKILLS granddtr.

ACTIVITIES: (CIVIC, ATHLETIC, ETC.) fishing alterations / Box Home

EXCLUDE ORGANIZATIONS, THE NAME OF WHICH INDICATES THE RACE, CREED, SEX, AGE, MARITAL STATUS, COLOR OR NATION OF ORIGIN OF ITS MEMBERS. 7 Sheet Business

U.S. MILITARY OR NAVAL SERVICE RANK PRESENT MEMBERSHIP IN NATIONAL GUARD OR RESERVES

*The Age Discrimination in Employment Act of 1987 prohibits discrimination on the basis of age with respect to individuals who are at least 40 years of age.

Request Criteria

SS No :549-34-5889

Returned Results

Possibly 2 different subjects using this Social Security No.

Subject # 1

HOLYFIELD, OLLIE Year Born : 1927
SS#:549-34-5889 Was issued in California between 1936 and 1951

AKA

HOLYFIELD, OLLIE M
RUST, OLLIE HOLYFIELD

Known Addresses for Subject # 1

JAN-96/JAN-96 - 1841 S F ST OXNARD CA 93030
OCT-95/OCT-95 - 14406 164TH PL SE RENTON WA 98059
DEC-94/DEC-94 - 2500 S 208TH ST DES MOINES WA 98198
JUN-94/JUN-94 - 1841 S F ST OXNARD CA 93033
JUN-93/JUN-93 - 12417 24TH AVE S SEATTLE WA 98168
SEP-92/SEP-92 - 6224 W MARIPOSA ST PHOENIX AZ 85033
DEC-91/SEP-92 - PO BOX 14648 PHOENIX AZ 85063

***** No additional telephone listings for:
1841 S F ST OXNARD CA 93030

Neighbors for: 1841 S F ST OXNARD CA 93030

ANDRADE SANTOS C	1040 S F ST	(805)486-3113
MACKI MICHELLE	1025 S F ST	(805)486-7822
SECOR R	1024 S F ST	(805)487-3096
MIRANDA EDNA	1009 S F ST	(805)486-5767
BUSTOS MARY	1001 S F ST	(805)483-0474
BENAVIDES MARTHA S	1001 S F ST	(805)486-7380
RODRIGUEZ ADAN S	951 S F ST	(805)486-6356
VARGAS NANCY & ARTURO	950 S F ST	(805)487-1920
FLORES E Y	945 S F ST	(805)483-1339
LOPEZ EXORCITA	936 S F ST	(805)483-5318

Telephone listings for: 14406 164TH PL SE RENTON WA 98059

HEARTLAND SENIOR FOSTER CARE	14406 164TH PL SE	(206)235-5080
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Neighbors for: 14406 164TH PL SE RENTON WA 98059

STEWART J C	14411 164TH PL SE	(206)271-4221
MANSMITH ROBERT M	14419 164TH PL SE	(206)228-2581
BALL DAROLD A	14514 164TH PL SE	(206)271-2629
LYDON PATTY	14521 164TH PL SE	(206)226-3216
NAGLE JAY I	14522 164TH PL SE	(206)271-0947
LUKINS JAMES W	14529 164TH PL SE	(206)228-6875

Telephone listings for: 12417 24TH AVE S SEATTLE WA 98168

SURFACE VICTOR JR	12417 24TH AVE S	(206)242-8289
-------------------	------------------	---------------

Subject # 2

RUST, OLLIE M

SS#:549-34-5889 Was issued in California between 1936 and 1951

Known Addresses for Subject # 2

JAN-88/JAN-88 - 4640 W KEIM DR GLENDALE AZ 85301

Telephone listings for: 4640 W KEIM DR GLENDALE AZ 85301

BRYANT GEORGE 4640 W KEIM DR (602)934-6262

Neighbors for: 4640 W KEIM DR GLENDALE AZ 85301

BUFFINGTON EDWARD	4639 W KEIM DR	(602)931-1492
COOCHWYTEWA E	4624 W KEIM DR	(602)939-6842
COLEMAN GARY	4623 W KEIM DR	(602)930-8773
COLLISON CECIL	4617 W KEIM DR	(602)939-0562
ROBBINS L	4611 W KEIM DR	(602)937-4751
LYDA JON F	4608 W KEIM DR	(602)934-4459
CORCKETT BARBARA	4607 W KEIM DR	(602)937-5473
SCHACHT JEFF R	4545 W KEIM DR	(602)939-3699
MINER LEE JR	4538 W KEIM DR	(602)937-3028
HRENIUC JOHN	4533 W KEIM DR	(602)939-3048
KREJCI ROBERT	5911 W KEIM DR	(602)937-6448
MORENO ANTHONY A	5916 W KEIM DR	(602)435-7083
TRUJILLO MANUEL	5916 W KEIM DR	(602)930-5116
MCKNIGHT J	5921 W KEIM DR	(602)930-0637
IPSON RUSSELL	5929 W KEIM DR	(602)930-8895
AMEND V A	5938 W KEIM DR	(602)937-8046
HUTH DENNIS	5938 W KEIM DR	(602)930-9167
RODRIGUEZ CONSUELO	5938 W KEIM DR	(602)435-5203
DAVIS CURTIS	5947 W KEIM DR	(602)931-1878

***** NO PILOT LICENSE FOUND *****

***** NO AIRCRAFT FOUND *****

***** NO DOCUMENTED VESSELS FOUND *****

CONTROL NUMBER: 245613

***** END OF REPORT *****

License Plate : ELP287
 Registered Owner 1: HOLYFIELD,OLLIE M
 Registered Owner 2: HOLYFIELD,CYNTHIA L

Address : 3614 NE 45TH
 PORTLAND OR 97213
 County : Multnomah

Vehicle Id. : 4B27U8W124442
 Vehicle Make : ===== IMPORTANT =====
 Vehicle Style : 2D This is an Historical Motor Vehicle
 Vehicle Type : 1 Passenger Record that reflects previous
 Vehicle Year : 78 registered owners.

Title Number : 9219043715 Expire Date : 94-05

F1 F2 F3 F4 22 1 F5 F6 F7 F8
 Rec.Help Sys.Help Ret.List

NEYLAND J L	14604 164TH PL SE	(206)255-2683
RISMILLER JIM	14611 164TH PL SE	(206)235-1748
CASEBEER RAYMOND D	14612 164TH PL SE	(206)226-3258

Telephone listings for: 2500 S 208TH ST DES MOINES WA 98198

BUCHBINDER KATHY	2500 S 208TH ST	(206)824-7053
COOKSON ROBERT E	2500 S 208TH ST	(206)824-9602

Neighbors for: 2500 S 208TH ST DES MOINES WA 98198

MILLAN HARRY	2503 S 208TH ST	(206)824-3630
BENNING ROBERT	2512 S 208TH ST	(206)878-4258
STEBBINS ROBIN	2415 S 208TH ST	(206)870-8683
HAVILAND JEFF	2415 S 208TH ST	(206)870-8683
BARRETT DANIEL I	2414 S 208TH ST	(206)878-2524
HUCKEY CHARLES	2413 S 208TH ST	(206)878-4329
GOFORTH D	2413 S 208TH ST	(206)824-1720
TARRICONE W L	2408 S 208TH ST	(206)878-7535
TM CONSTRUCTION INC	2620 S 208TH ST	(206)870-3819
JET SUPPORT CORPORATION	2819 S 208TH ST	(206)433-3900
BOMER JOHN J	2909 S 208TH ST	(206)824-6285
HIGHBERGER GARY	2909 S 208TH ST	(206)824-0176
HUNTER TODD	2909 S 208TH ST	(206)824-6355
LUNDIN D L	2909 S 208TH ST	(206)870-8850
NICOLI RAY J	1407 S 208TH ST	(206)824-6616
DEVANEY JACKIE	1303 S 208TH ST	(206)878-2757
HUNT DAVID V	1302 S 208TH ST	(206)824-5114
HELD JON C	1025 S 208TH ST	(206)824-1389

***** No additional telephone listings for:
1841 S F ST OXNARD CA 93033

Neighbors for: 1841 S F ST OXNARD CA 93033

CERVANTEZ C	1830 S F ST	(805)483-3574
GARCIA HELIODORO	1861 S F ST	(805)487-4908
ROBLES MARIA ALICIA	1821 S F ST	(805)486-3496
GARCIA LORENZO	2010 S F ST	(805)486-9414
SOLORIO JOAQUIN	2023 S F ST	(805)487-6893
BERLIN DENNIS & DIANNA	2030 S F ST	(805)486-0605
BATTON EAIRLES	1453 S F ST	(805)483-3282
RAMIREZ ARTURO R	1445 S F ST	(805)487-0768
GONZALEZ JOSE ALVARO	1445 S F ST	(805)486-6049
YOUNG JOHNIE	1428 S F ST	(805)483-3692
ROSALES ANA MARIA	1427 S F ST	(805)487-7678
SAMUEL JAMES L	1420 S F ST	(805)486-3606
ALVARADO EULALIO	1410 S F ST	(805)487-2037
MONTGOMERY JAMES	1405 S F ST	(805)483-1047
GONZALEZ MARIA	3004 S F ST	(805)487-8149
TISCARENO RAMIRO C	3004 S F ST	(805)486-5481
L JS PLUMBING	3032 S F ST	(805)486-2150
MILLAGE J R	3033 S F ST	(805)486-2718
LOPEZ RAYMOND G	3050 S F ST	(805)483-6788
ARRIAGA JOAQUIN	3100 S F ST	(805)486-8574

Telephone listings for: 12417 24TH AVE S SEATTLE WA 98168

SURFACE VICTOR JR	12417 24TH AVE S	(206)242-8289
-------------------	------------------	---------------

Neighbors for: 12417 24TH AVE S SEATTLE WA 98168

WEIDENBACH WILLIAM	12421 24TH AVE S	(206)244-9045
HENDRICKSON HENRY L	12426 24TH AVE S	(206)243-5307
MARKARIAN CHARLES	12433 24TH AVE S	(206)241-6870
MOODY FRED E	12434 24TH AVE S	(206)243-4002
WARD JOHN	12454 24TH AVE S	(206)246-2058
TURA HASSEN	12257 24TH AVE S	(206)241-1925
IVERSON ALBERT F	12251 24TH AVE S	(206)242-4755
HILLTOP ELEMENTARY SCHOOL	12250 24TH AVE S	(206)433-2371
HIGHLINE PUBLIC SCHOOLS SCHOOLS	12250 24TH AVE S	(206)433-2371
HIGHLINE PUBLIC SCHOOLS ELEMENTA	12250 24TH AVE S	(206)433-2371
RODGERS DANNY W	12249 24TH AVE S	(206)246-5077
HUDDLESON D	12247 24TH AVE S	(206)243-4378
CHAMPION ROBERT J	12235 24TH AVE S	(206)248-1840
DENNING JAMES L	12233 24TH AVE S	(206)246-6054
JACKSON DAVID	12231 24TH AVE S	(206)243-4226
GRAHAM H E	12615 24TH AVE S	(206)244-9012
LAMPMAN WILLIAM D	12618 24TH AVE S	(206)244-1016
RUFFING THOMAS H	12624 24TH AVE S	(206)242-8770
SHERMAN PERRY W	12627 24TH AVE S	(206)242-2670

***** No additional telephone listings for:
6224 W MARIPOSA ST PHOENIX AZ 85033

Neighbors for: 6224 W MARIPOSA ST PHOENIX AZ 85033

LEWIS ALLEN O	6219 W MARIPOSA ST	(602)846-0848
WATKINS JESSE B	6232 W MARIPOSA ST	(602)846-0643
SINKS KEVIN	6208 W MARIPOSA ST	(602)848-8389
HO GARY	6247 W MARIPOSA ST	(602)846-9192
WIJT JOHN	6248 W MARIPOSA ST	(602)846-0810
DELMANOWSKI STEVEN J	6258 W MARIPOSA ST	(602)846-4970
ANNORENO NANCY L	6264 W MARIPOSA ST	(602)846-0632
STEVENSON EARL J	6265 W MARIPOSA ST	(602)846-0890
CONOVER FRED G	6277 W MARIPOSA ST	(602)846-0844
NAGEL ANNA	6442 W MARIPOSA ST	(602)848-8444
LEATHERWOOD JERRY	6448 W MARIPOSA ST	(602)846-6409
MANN LOREN	6458 W MARIPOSA ST	(602)848-6596

***** No additional telephone listings for:
PO BOX 14648 PHOENIX AZ 85063

***** No Neighbors for:
PO BOX 14648 PHOENIX AZ 85063

***** NO PILOT LICENSE FOUND *****

***** NO AIRCRAFT FOUND *****

***** NO DOCUMENTED VESSELS FOUND *****

=====

STATEMENT

On March 22, 1993, I arrived to work at Dianna Robert's adult foster care home. I was aware that I would be replacing Ollie Hollyfield. When Ms. Roberts informed Ms. Hollyfield that she would no longer be needed, she became totally out of control! She verbally assaulted Ms. Roberts and doubled up her fist in her face as though she was going to strike her. Ms. Hollyfield refused to leave and sat down at the breakfast table with the elderly residents at the home and continued to be loud telling the ladies what a B---- Ms. Roberts was.

Ms. Roberts was forced to call the Gresham Police Department for assistance. When an officer arrived, he informed Ms. Hollyfield that she did, in fact, have to leave or be arrested. Under the circumstances, she chose to leave. The officer gave her approximately 25-30 minutes to load her things in her car. While she was loading her things, the officer waited in the living room area. He informed her to not come back without an escort, or officer.

After Ms. Hollyfield left, Ms. Roberts and myself went about the routine work taking care of the residents. Ms. Roberts went out to shop around 11:00. When she returned at noon, I assisted her in bringing in the groceries from the car, which I routinely did. Ms. Roberts had backed up close to the side door, as usual, because it was raining.

After putting away the groceries, I helped get one of the residents out to the car to go to the doctor (Flonnie McClane). Her appointment was at 1:00 pm, so we were pushed for time. While Ms. Roberts and Ms. McClane were gone, Ms. Hollyfield came back to get the rest of her things with an officer. At that time, Ms. Hollyfield claimed that her television and sewing machine were missing. I had no knowledge of these items as I had never been in her room, nor seen them.

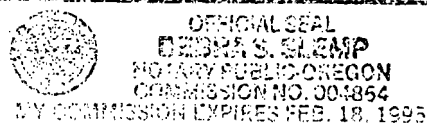

Sue Hanson

STATE OF OREGON
COUNTY OF MULTNOMAH

Dated: December 7, 1993

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ON 12-7-93 BY Sue Hanson


Notary



January 11, 1996



Penelope J. Smith, MSSW
Field Officer
Office of the Long Term Care Ombudsman
2475 Lancaster Dr., NE B-9
Salem, OR 97310

Dear Penelope:

Thank you for visiting my home today. I regretted having to leave the meeting early Tuesday evening as I had wanted to talk with you, personally. Your suggestions were very helpful today. I am enclosing the report prepared by Tom Glenn, which we discussed.

My position is that I should not have to pay an attorney to defend myself in a hearing against these allegations. Your Ombudsmen should use common sense before submitting complaints from mentally unstable residents, as you can see from my experience how much damage these reports can do. (In my opinion, there is no question that Tom was still suffering from a bruised ego when he wrote this report for which I have to take 'some' of the blame -- only a very small portion -- a situation he and I both learned from.)

Fifteen counties is a large territory to cover. Perhaps, at least I hope, you can use my situation as a training tool for your volunteers. You suggested possibly sending an Ombudsman to visit. If you would like to, that's fine; but when you review my 'Log of Visitors' you may change your mind. My ladies and relief caregivers are suffering from visitor burnout!!!

It was nice talking with you!

Sincerely,

Dianna J. Roberts
Owner/Manager

Enc: Mark Cottle Letter - 9-22-95
1995 Log of Visitors by Multnomah County Staff
Notes (2 pages)
Tom Glenn's Complaint Report
Unsigned Affidavit of Tom Glenn
Jim McConnel Letter - 1-4-96



PENELOPE J. SMITH
MSSW
Field Officer



OFFICE OF THE
LONG TERM CARE
OMBUDSMAN
2475 Lancaster Dr. NE B-9
Salem, Oregon 97310
(503) 378-6533
Fax (503) 373-0852
TOLL FREE
1-800-522-2602



Tom should have declined this visit due to previous misunderstanding for which he was reprimanded earlier in the year. I specifically asked that he not be sent to visit Flonnie for this reason. I felt he would not be unbiased or impartial. This request was not taken seriously. I requested an Ombudsman visit because Mr. McConnell had phoned me and ordered me not to contact Flonnie again or he would file a protective service complaint of abuse. He was not interested in the fact that the last time I talked to Flonnie was on her birthday and it was to wish her happy birthday, only, but she was confused, had slurred speech, and talked in circles as though over-medicated.

Flonnie later told her daughter, Darlene, that although she wanted to come back home, she was afraid to. After being confronted with Tom's complaint and others from the Protective Service ladies, I can understand why she was afraid.

- 1) Ridiculous - mad about the transfer? She states I was mad about the transfer, which was a total surprise to me, until John & Betty knocked on my door at 1:00 pm that afternoon. They took her out within the hour.
- 2) I always bought all her sweats -- watched for them to go on sale and when they did, I would ask her if she wanted me to pick some up. They were often on sale for \$6.95 ea. or \$13.90 for the set. I always gave her back \$6.00. I don't know anything about a 'National' catalog, but she looked at catalogs such as Blaire quite often. I was not required to keep an 'accounting' of her money, because I never kept her money for her.
- 3) Flonnie, in 6 years at my home never used an electric blanket or quilt. If in this item, Tom is referring to 'Complainant' as himself. This, too, does not make sense, because I asked Tom to visit my home during a Portland/Multnomah Commission on Aging Meeting which we both attended monthly.
- 4) Yes, I am frequently gone to avoid burnout; but what does Flonnie know about 'substitute caregiver certification' or that there is even such a thing -- nothing, absolutely nothing.
- 5) I am strict with caregivers because I have and demand high standards. If I did not I would not have been able to stay in business 11 years! On the other hand, I have lost COUNTLESS caregivers because of Flonnie, as I only briefly explained during your visit, Penelope!
- 6) Penelope, you saw my notes over my thermostat as instructions to caregivers. They read keep set at 72 may turn up to 74 and turn down to 70 at 8:00 pm.

My notes on 3 by 5 cards have yellowed from being up so many years!

- 7) My dog is too heavy to hold and too old -- it has never happened. My cat is also old and well trained to stay out of the kitchen. Flonnie has just never liked my pets, which are loved by all my other ladies and a wonderful comfort!

July 22, 1996

Deborah L. Bogstad
Office of the Board Clerk
Multnomah County Commissioners
Suite 1510
Portland, OR 97204

CERTIFIED MAIL RRR
P 354 579 019

**RE: Appeal from Hearings Officer Decision on Adult Care Home License
of Dianna Roberts - Amendment to Original request in letter dated July 2, 1996**

Dear Ms. Bogstad:

By avenue of this letter I am requesting that my original request for a new hearing be changed to request that the Hearings Officer's Decision be overturned or remand Multnomah County's Decision revoking my license of operate. The reasons for this amendment are the same as in the previous request for a new hearing.

Second, as per attached letters, you will note that Mr. Robert Blackmore is on sabbatical and unable to represent me at the hearing as scheduled on August 15, 1996. Therefore, I, respectfully, request a 60 day continuance to engage a new attorney.

Very truly yours,

ROSEWOOD CARE, INC. (Est'd 1985)



Dianna J. Roberts
Owner/Operator

cc: Pete Kasting
Katie Gaetjens
Robert Blackmore
Board of Commissioners

BOARD OF
COUNTY COMMISSIONERS
96 JUL 23 PM 3:23
MULTNOMAH COUNTY
OREGON

July 19, 1996

Robert Blackmore, Attorney
DUNN, CARNEY, ALLEN, HIGGINS & TONGUE
851 S.W. 6th Ave., Suite 1400
Portland, Oregon 97204-1357

Dear Bob:

Re: Appeal Hearing of the Revocation of my Adult Foster Care Home License

I would appreciate your handling this appeal hearing for me before the Multnomah County Commissioners on Thursday, August 15, 1996.

A copy of the Board Clerk's letter dated July 12, 1996 is attached.

Respectfully,

ROSEWOOD CARE, INC. (Est'd 1985)

A handwritten signature in black ink, appearing to read "DJR" followed by a horizontal line.

Dianna J. Roberts
Owner/Operator

DUNN, CARNEY, ALLEN, HIGGINS & TONGUE**Attorneys at Law****851 SW Sixth Avenue, Suite 1500****Portland, OR 97204-1357****Telephone: (503) 224-6440****Facsimile: (503) 224-7324****FACSIMILE COVER SHEET****DATE** : July 19, 1996 **TIME:** _____**PLEASE DELIVER TO** :**NAME** : Dianna Roberts**COMPANY** :**FAX NO.** : 661-4763**PAGES** : 2 (include cover page)**CLIENT/MATTER** : ROB36-1**COMMENTS** : Correspondence**FROM (Attorney/Secretary):** Robert F. Blackmore/pgs**ORIGINAL DOCUMENT BEING TRANSMITTED:**

- ☐ Will not be sent
☐ Will be sent by Federal Express
☒ Will be sent by regular mail
☐ Other _____

TRANSMISSION PROBLEMS OR ERRORS:

1. **Transmission Problem:** If you do not receive all pages or experience other transmission problems, please call the sender at (503) 224-6440.
2. **Transmission Received in Error:** This transmission is confidential attorney-client information. If received in error, please contact the sender immediately at (503) 224-6440.

DUNN, CARNEY, ALLEN, HIGGINS & TONGUE

ATTORNEYS AT LAW

881 S.W. SIXTH AVENUE, SUITE 1800
PACIFIC FIRST CENTER
PORTLAND, OREGON 97204-1357

FACSIMILE (503) 224-7324
TELEPHONE (503) 224-6440

CENTRAL OREGON OFFICE
700 N.W. HILL STREET
BEND, OREGON 97701
FACSIMILE (541) 388-8807
TELEPHONE (541) 382-9241

JACK D. HOFFMAN
C. SCOTT HOWARD*
SUSAN D. ISSELHARD
ERIC A. KEKEL*
MARSHA MURRAY-LUSBY
JEFFREY F. NUDELMAN*
PHOEBE JOAN O'NEILL*
GILBERT E. PARKER
GARY E. RHODES
GAYLE K. ROWE
G. KENNETH SHIROISHI**
JON R. SUMMERS
DONALD E. TEMPLETON*
THOMAS H. TONGUE
DANNY D. TYE
DANIEL F. VIDAS*
ROBERT K. WINGER

* Admitted in Oregon and Washington
* Admitted in Oregon and California
** Resident, Bend Office

ROBERT L. ALLEN
MARK P. AMBERG**
KENNETH S. ANTELL*
BRADLEY C. BAKER
JONATHAN A. BENNETT*
ROBERT F. BLACKMORE
ERNEST Q. BOOTSMA*
RICHARD T. BORST
WILLIAM H. CAFFEE
ROBERT R. CARNEY
GEORGE J. COOPER
ANDREW B. CRAIG
I. KENNETH DAVIS
JOHN C. DEVOE
KITRI C. FORD**
JAY M. FOUNTAIN
MICHAEL J. FRANCIS*
THOMAS A. GERBER
SUSAN C. GLEN
NANCY R. GREENE
BRYAN W. GRUETTER**
JAMES M. HILLAS
FRANK H. HILTON, JR.

July 19, 1996

VIA FAX NO. 661-4763
AND BY REGULAR MAIL

Ms. Diana Roberts
19390 N.E. Multnomah Court
Portland, OR 97230

Re: Rosewood Foster Care

Dear Ms. Roberts:

Thank you for your inquiry about my representing you at your hearing in August. However, given the status of my sabbatical and the efforts which would be required to obtain the setover and continuance, together with proposals for the hearing, I believe you would be best represented by other counsel. Accordingly, we cannot accept representation of your interests. I strongly urge you to retain counsel who previously represented you in that they are most familiar with the process and the circumstances of your case.

Best wishes to you in your legal proceeding.

Very truly yours,

Dictated, but not read

Robert F. Blackmore

RFB:pga
RFB:ROB36-1.003



CITY OF

PORTLAND, OREGON

OFFICE OF CITY ATTORNEY

Jeffrey L. Rogers, City Attorney
City HallMailing Address:
1220 SW 5th Ave Rm 315
Portland OR 97204Temporarily Located At:
1400 SW 5th Ave Rm 600
Portland OregonDate: 7/23/96FAX TRANSMISSION

TO:

Deb Boggs

Fax No. _____

FROM:

Pete Keating

Fax No. 823-3089

SUBJ:

This transmission contains 2 pages, including this transmittal sheet. If you have any problem with this transmission, please call me at 823-4047.

COMMENTS:

Deb - FYI - Original to follow.
Deb

An Equal Opportunity Employer
TDD (For Hearing & Speech Impaired) (503) 823-6868



BOARD OF
COUNTY COMMISSIONERS
96 JUL 24 AM 11:09
MULTNOMAH COUNTY
OREGON



CITY OF
PORTLAND, OREGON
OFFICE OF CITY ATTORNEY

Jeffrey L. Rogers, City Attorney
City Hall

Mailing Address:
1220 SW 5th Ave Rm 315
Portland OR 97204

Temporarily Located At:
1400 SW 5th Ave Rm 600
Portland Oregon

July 23, 1996

INTEROFFICE MEMORANDUM

TO: Deb Bogstad, Clerk
Multnomah County Board of Commissioners

FROM: Peter Kasting *PK*
Senior Deputy City Attorney

SUBJECT: Appeal of Dianna Roberts from Hearings Officer Decision on an Adult Care Home License

At its meeting on August 15, 1996, the Board needs to decide whether it wants to (1) schedule a hearing to accept evidence or argument on this appeal or (2) decide this appeal on the record that has already been created. MCC section 8.90.090 (J) and section 890-90-450 of the Administrative Rules for Licensure of Adult Care Homes give the Board discretion to follow either course.

If the Board chooses to decide this matter on the record, it may either make a decision on August 15 or may, if it chooses, bring the matter back to the Board at a later date for Board discussion and a final decision. The meeting on August 15 is not for the purpose of receiving evidence or argument from the parties regarding the merits of the appeal. It is only to decide whether the Board wants to receive additional evidence or argument in this matter or, if the Board chooses, to dispose of the matter on the existing record.

I will be attending the meeting on August 15. Ms. Roberts and representatives of the Adult Care Home Program might attend but are not required to attend. If they do attend and the Board wants to hear from them on whether additional evidence or argument should be received (and on that question only), I would suggest giving each side three minutes to make a statement.¹

c: Dianna Roberts
Katie Gaetjens, Assistant County Counsel

¹Note to parties: You must let the Board Clerk know if you would like to address the Board. Notification cards are provided for this purpose. They are located on a small table just inside the door of the Board's meeting room. You should give a completed card to the Clerk before the meeting starts.

An Equal Opportunity Employer
TDD (For Hearing & Speech Impaired) (503) 823-6868





CITY OF

PORTLAND, OREGON

OFFICE OF CITY ATTORNEY

Jeffrey L. Rogers, City Attorney
City HallMailing Address:
1220 SW 5th Ave Rm 315
Portland OR 97204Temporarily Located At:
1400 SW 5th Ave Rm 600
Portland OregonDate : 7/23/96FAX TRANSMISSION

TO:

Deb Rogstad

Fax No. _____

FROM:

Pete Keating

Fax No. 823-3089

SUBJ:

BOARD OF
COUNTY COMMISSIONERS
96 JUL 24 PM 3:08
MULTNOMAH COUNTY
OREGON

This transmission contains 2 pages, including this transmittal sheet. If you have any problem with this transmission, please call me at 823-4047.

COMMENTS:

Deb - FYI - Original to follow.
Deb

An Equal Opportunity Employer
TDD (For Hearing & Speech Impaired) (503) 823-6868





CITY OF
PORTLAND, OREGON
OFFICE OF CITY ATTORNEY

Jeffrey L. Rogers, City Attorney
City Hall

Mailing Address:
1220 SW 5th Ave Rm 315
Portland OR 97204

Temporarily Located At:
1400 SW 5th Ave Rm 600
Portland Oregon

July 24, 1996

INTEROFFICE MEMORANDUM

TO: Deb Bogstad
Clerk, Board of County Commissioners

FROM: Pete Kasting
Senior Deputy City Attorney

SUBJECT: Scheduling of Dianna Roberts Appeal

You have asked whether the Board should reschedule its initial discussion of the Dianna Roberts appeal, based on Ms. Roberts' letter of July 22. The initial discussion is currently set for August 15.

While it is up to the Board to decide whether to reschedule this matter, my advice would be that there is no need to reschedule.¹ There are two reasons for this conclusion. First, the meeting on August 15 is not a public hearing and there will be no opportunity on August 15 to make a presentation on the merits of this appeal.² Second, Ms. Roberts asked for the setover based on attorney Robert Blackmore's inability to appear at the Board meeting on August 15. However, the attached letter from Mr. Blackmore states that he is not representing Ms. Roberts in this matter.

You might want to circulate this memo to the Board. I will be glad to discuss this issue with them, if desired.

c: Dianna Roberts
Katie Gaetjens

¹If any Board member wants to initiate a setover of this matter, he or she should raise the issue at a Board meeting prior to August 15.

²My memo of July 23 describes the issues to be addressed at the August 15 meeting.

An Equal Opportunity Employer
TDD (For Hearing & Speech Impaired) (503) 823-6868



BOGSTAD Deborah L

From: BOGSTAD Deborah L
To: STEIN Beverly E; KELLEY Sharron E; HANSEN Gary D; COLLIER Tanya D;
SALTZMAN Dan S; GAETJENS Katie G; KRESSEL Larry
Cc: ROJO Maria D; FARRELL Delma D
Subject: Dianna Roberts Appeal
Date: Wednesday, July 24, 1996 4:04PM

For your review, Aimee just delivered to your office copies of Ms. Roberts July 22 letter requesting that the hearings officer decision in her case be overturned or remanded and requesting a 60 day continuance in order for her to engage a new attorney, as well as copies of Pete Kasting's July 23 and July 24 memos explaining the August 15 procedure and responding to Ms. Roberts' letter.



CITY OF
PORTLAND, OREGON
OFFICE OF CITY ATTORNEY

Jeffrey L. Rogers, City Attorney
City Hall

Mailing Address:
1220 SW 5th Ave Rm 315
Portland OR 97204

Temporarily Located At:
1400 SW 5th Ave Rm 600
Portland Oregon

July 23, 1996

INTEROFFICE MEMORANDUM

TO: Deb Bogstad, Clerk
Multnomah County Board of Commissioners

FROM: Peter Kasting *PK*
Senior Deputy City Attorney

SUBJECT: Appeal of Dianna Roberts from Hearings Officer Decision on an Adult Care Home License

BOARD OF
COUNTY COMMISSIONERS
96 JUL 25 AM 8:40
MULTNOMAH COUNTY
OREGON

At its meeting on August 15, 1996, the Board needs to decide whether it wants to (1) schedule a hearing to accept evidence or argument on this appeal or (2) decide this appeal on the record that has already been created. MCC section 8.90.090 (J) and section 890-90-450 of the Administrative Rules for Licensure of Adult Care Homes give the Board discretion to follow either course.

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c: Dianna Roberts
Katie Gaetjens, Assistant County Counsel

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PORTLAND, OREGON
OFFICE OF CITY ATTORNEY

Jeffrey L. Rogers, City Attorney
City Hall

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July 24, 1996

INTEROFFICE MEMORANDUM

TO: Deb Bogstad
Clerk, Board of County Commissioners

FROM: Pete Kasting *PK*
Senior Deputy City Attorney

SUBJECT: Scheduling of Dianna Roberts Appeal

BOARD OF
COUNTY COMMISSIONERS
96 JUL 25 PM 2:53
MULTNOMAH COUNTY
OREGON

You have asked whether the Board should reschedule its initial discussion of the Dianna Roberts appeal, based on Ms. Roberts' letter of July 22. The initial discussion is currently set for August 15.

While it is up to the Board to decide whether to reschedule this matter, my advice would be that there is no need to reschedule.¹ There are two reasons for this conclusion. First, the meeting on August 15 is not a public hearing and there will be no opportunity on August 15 to make a presentation on the merits of this appeal.² Second, Ms. Roberts asked for the setover based on attorney Robert Blackmore's inability to appear at the Board meeting on August 15. However, the attached letter from Mr. Blackmore states that he is not representing Ms. Roberts in this matter.

You might want to circulate this memo to the Board. I will be glad to discuss this issue with them, if desired.

c: Dianna Roberts
Katie Gaetjens

¹If any Board member wants to initiate a setover of this matter, he or she should raise the issue at a Board meeting prior to August 15.

²My memo of July 23 describes the issues to be addressed at the August 15 meeting.



BEFORE THE BOARD OF COUNTY COMMISSIONERS

96 JUL 30 AM 8:16

MULTNOMAH COUNTY

MULTNOMAH COUNTY
OREGON

In the Matter of the Revocation
of the Adult Care Home
License of Dianna Roberts

City Hearing Office
Case NO. 161035

Adult Care Home Program's
Rebuttal to Operator's Exceptions

BACKGROUND

On November 28, 1996, the Multnomah County Department of Aging Services, Adult Care Home Program, ("ACHP") notified Ms. Roberts of its intent to revoke her license to operate an adult care home and of her right to request a hearing. Ms. Roberts requested a hearing, which was conducted on March 28 and 29, April 5, 19 and 25, and May 9, 17 and 21. On June 14, 1996 the hearing officer issued his order affirming the revocation. (Exhibit "A"). On July 8, 1996, the Board of County Commissioners ("Board") received Ms. Roberts exceptions to the order. (Exhibit "B"). This hearing is the Board's opportunity to respond to Ms. Roberts' exceptions.

ARGUMENT

The Board should accept the hearing officer's detailed and thorough order upholding the ACHP's revocation. This order was entered after over 30 hours of hearing, in which Ms. Roberts had the opportunity to present her case fully. The hearing officer was able to evaluate the witnesses, and the voluminous

1 documentary evidence in this case. He concluded that Ms. Roberts
2 was responsible for significant instances of resident neglect,
3 failure to keep client records, including adequate medication
4 records, refusal to cooperate with county monitoring of the adult
5 care home, failure to obtain necessary criminal record checks,
6 and a "myriad of incidents" that "evinced a lack of good judgment
7 and sound character on [Ms. Roberts'] part." The Board has no
8 reason to re-open this matter and should accept the hearing
9 officer's order on the record.

10 CHRONOLOGY

11 For purposes of clarity, the ACHP offers the following
12 chronology of the events relevant to this appeal:

13 1. August 18, 1995. Notice of suspension of admissions
14 issued to Ms. Roberts based on "the substantial number of
15 complaints/and or protective service reports" filed against the
16 adult care home. There were five complaints, each from a
17 different source. These complaints alleged serious instances of
18 neglect and abuse of residents' rights. At this time, the ACHP
19 had not been able to complete its investigation of all of the
20 reports, but had learned enough to conclude that new admissions
21 were not appropriate.

22 2. September 15, October 18 and November 11, 1995. The
23 suspension of admissions was extended for three additional 30 day
24 periods. The investigation could not be completed more quickly,
25 in large part because Ms. Roberts was not permitting access to
26 her home and to necessary records. (See Hearing Officer's Order

1 at 4-5.) In addition, a sixth complaint developed during the
2 investigation.

3 3. November 28, 1996. The ACHP issued a notice of
4 revocation of the license, with copies of the completed
5 investigation reports attached.

6 4. Conferences on the suspension of Admissions. During
7 this three-month period, Ms. Roberts was represented by three
8 different attorneys, at least one of whom she retained without
9 notifying the previous attorney of his dismissal. Through the
10 last two of these attorneys, Ms. Roberts requested administrative
11 conferences regarding the license suspensions. In agreement with
12 these two attorneys, the ACHP postponed administrative
13 conferences regarding the suspensions of admissions until
14 investigation of the complaints was complete and administrative
15 action taken on the findings. (See letter from K. Gaetjens to
16 Mark Cottle, Exhibit "C".) and affidavit of K. Gaetjens regarding
17 additional contacts with Mark Cottle and James Niedermeyer
18 (Exhibit "D".) Ms. Roberts now asserts she was denied requested
19 administrative conferences. This assertion is inaccurate, and
20 appears to stem from ineffective communication with her own
21 counsel during this time.

22 5. Request for Hearing on the Revocation. Following the
23 November 28, 1995 letter of notice of intent to revoke, Ms.
24 Roberts requested a hearing. (See D. Roberts December 15, 1995
25 letter, Exhibit "E".) The ACHP responded in a January 5, 1996
26 letter, offering Ms. Roberts an administrative conference and

1 attempting to determine if Ms. Roberts wanted to consolidate the
2 suspension and the revocation proceedings. The letter was sent
3 to her because she was no longer represented by her third
4 attorney. (Exhibit F") She declined this opportunity. (Exhibit
5 "G")

6 6. On January 18, 1996, the hearing officer notified the
7 parties that the revocation hearing would be handled as a
8 separate matter from the earlier suspensions, and that the
9 request for a hearing on the suspensions would be held in
10 abeyance until the conclusion of the revocation proceeding.
11 (Exhibit "H")

12 7. After numerous requests for postponements by Ms.
13 Roberts, one of which was granted, the revocation hearing began
14 on March 28, 1996. The ACHP presented its case in chief on March
15 28 and 29 and April 5. The hearing was reconvened for Ms.
16 Roberts to present her case on April 5, 19 and 26 and on May 9,
17 17 and 21. The numerous set overs and delays were in response to
18 motions and objections filed by Ms. Roberts. Despite numerous
19 opportunities to do so, Ms. Roberts failed to present any
20 witnesses in her behalf. Written closing arguments were
21 submitted May 28, 1996, and the final order affirming revocation
22 was issued June 14, 1996.

23 EXCEPTIONS

24 Ms. Roberts raises numerous "exceptions" to the revocation
25 of her license. Significantly, none of these exceptions dispute
26 the facts on which the revocation is based, but instead allege

1 she received an unfair hearing. In fact, Ms. Roberts received
2 extraordinary consideration in the hearing process despite
3 repeated delaying and harrassing tactics on her part. Her
4 allegations are considered in order:

5 1. Bias. The ACHP contracts with a hearing officer from the
6 City of Portland precisely to avoid even the appearance of bias
7 in the hearing decision maker. The hearing officer had no advance
8 knowledge of Ms. Roberts case other than the documents the ACHP
9 and Ms. Roberts submitted, and no ex parte contact regarding Ms.
10 Roberts with the ACHP during the course of the hearing. The
11 Attorney General has defined "bias" as "prejudice or prejudgment
12 of the facts to such an extent that an official is incapable of
13 rendering a fair judgment." 41 Op Atty Gen 490, 492-93 (1981).
14 The fact that the hearing officer did not decide in Ms. Roberts
15 favor does not mean he was "incapable of rendering a fair
16 decision."

17 2. Constitutional Violations. Ms. Roberts' constitutional
18 claims are ill-founded because the rights she asserts apply, if
19 at all, to criminal proceedings. For example, only in certain
20 criminal trials is there a right to appointed counsel. Moreover,
21 Ms. Roberts was never prohibited from appearing by counsel. She
22 was simply not permitted to set the hearing over further to
23 retain a fourth attorney. Similarly, there is no inherent right
24 to a video-recording of an administrative hearing. In fact,
25 administrative hearings are specifically exempted from the Public
26 Meetings Law, which Ms. Roberts cites. ORS ORS 192.690(1) and

1 (2). An audio recording was made, which is available to Ms.
2 Roberts on request.

3 3. Notice Procedures. Ms. Roberts objects that she did not
4 receive notice of her rights or of hearing procedures, as set
5 forth in ORS 183.413(1) and (2). The short answer is that the
6 statutes she cites are part of the Oregon Administrative
7 Procedures Act, which applies to state agencies. The real
8 question is not whether these provisions were followed, but
9 whether Ms. Roberts had an opportunity for a full and fair
10 hearing. Ms. Roberts was notified of her right to a hearing, and
11 how to obtain it. She was notified of the charges against her,
12 so that she could prepare any evidence she had to rebut those
13 facts. See November 28, 1995 revocation letter, in record. The
14 procedure in a hearing and the types of evidence permitted are
15 covered in the ACHP rules, with which the operator is required to
16 be familiar. See MCAR 890-030-300. In addition, the hearing
17 officer, during the hearing, explained his expectations regarding
18 presentation of her case to Ms. Roberts.

19 The hearing officer also considered Ms. Roberts' notice
20 objections during the hearing itself. For example, the ACHP
21 notified Ms. Roberts on February 12, 1996, that it had found
22 additional violations of the ACHP rules and was amending the
23 November 28, 1995 notice of revocation to include these
24 violations. It presented evidence regarding these additional
25 violations at hearing, but the hearing officer ultimately
26 concluded that the ACHP had not adequately notified Ms. Roberts.

1 He struck this evidence, and did not consider these
2 violations in supporting the revocation. (See Exhibit "A" at 1.)
3 In summary, the hearing officer considered whether Ms. Roberts
4 received adequate notice, and acted in her favor when he believed
5 the ACHP had made a procedural error by not supplying adequate
6 notice.

7 4. Limiting Witnesses. On the second day of the hearing,
8 at Ms. Roberts request, the ACHP and Ms. Roberts exchanged
9 witness lists. Her list consisted of four names: "Valerie
10 Young, Darrold Steiner, Chery (sic) Banks, Cindy Peetz-Yoakim."
11 The County concluded its case in chief on April 5, 1995. At any
12 of the subsequently scheduled hearing dates, Ms. Roberts could
13 have presented any of these witnesses. She never did.

14 Instead, after appearing on April 19 with no witnesses, and
15 despite having been told by the hearing officer that it was her
16 opportunity to put on her evidence, Ms. Roberts submitted a new
17 57-person witness list after the close of the hearing on April
18 19. The ACHP moved to strike the list as an untimely attempt to
19 delay the proceeding. The hearing officer allowed the motion,
20 but agreed to permit Ms. Roberts to present any of these
21 witnesses if she could demonstrate that she did not know of the
22 witnesses at the time of exchange of original witness lists, and
23 that they would have relevant evidence. See Hearing Officer
24 April 22, 1996 letter. (Exhibit "I"). Ms. Roberts failed to
25 make such a showing for any of the 57 witnesses. In summary, Ms.
26 Roberts had many opportunities to present witnesses. She simply

1 did not do so. Her complaints are disingenuous at best.

2 5. ACHP's Closing Argument. Ms. Roberts asserts that the
3 ACHP's closing argument is "laced with innuendoes." In fact, it
4 is an accurate account of the evidence presented at hearing from
5 the ACHP's perspective. In any event, the hearing officer was
6 present in person for the entire hearing. His summary of the
7 evidence is based on first hand observation, and not dependent on
8 the ACHP's closing. Finally, it is noteworthy that Ms. Roberts
9 does not disprove any of the ACHP's factual evidence, but merely
10 complains about alleged "innuendoes" and an alleged "conspiracy."

11 CONCLUSION

12 Reviewed carefully, Ms. Roberts' exceptions do not dispute
13 the factual findings underlying the ACHP's revocation, but
14 instead allege that she did not have a fair hearing because she
15 did not prevail. Ms. Roberts was provided numerous opportunities
16 to present her side of the story, which is what a hearing is
17 about, and instead used this time to make voluminous complaints
18 about the process and to ignore all of the required procedures.
19 (See Exhibit "A" at 2.)

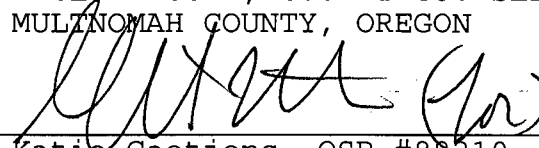
20 The Board is empowered to make a decision on the record.
21 The hearing officer's order sets out clear and unequivocal
22 conclusions, based on evidence presented at hearing. He finds
23 that Ms. Roberts violated the ACHP rules by neglecting residents
24 in a number of ways, some of them life-threatening. He also
25 concludes that Ms. Roberts was guilty of misrepresenting herself
26 and her services, misrepresenting statements made by others,

1 and filing unsubstantiated complaints with licensing boards when
2 crossed. The Board should adopt the hearing officer's order
3 affirming the ACHP's revocation on the record. Further hearing
4 will not result in any additional accurate information, and any
5 delay will leave the elderly residents still in Ms. Roberts home
6 at continuing, significant risk. Consequently, the ACHP
7 respectfully requests that the Board affirm the hearing officer's
8 June 14, 1996 order on the record. A form of order is attached
9 for this purpose.

10 DATED this 25th day of July, 1996.

11 LAURENCE KRESSEL, COUNTY COUNSEL
12 FOR MULTNOMAH COUNTY, OREGON

13 By

14 
Katie Gaetjens, OSB #88210
15 Assistant County Counsel
Of Attorneys of Department
16 of Aging Services
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CITY OF
PORTLAND, OREGON
HEARINGS OFFICE

1120 S.W. 5th Avenue, Room 1017
Portland, Oregon 97204-1960
Land Use Hearings (503) 823-7719
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HEARINGS OFFICER'S ORDER

APPEAL OF DIANNA J. ROBERTS

HEARING NO. 161035

DATES OF HEARING:
COMMENCED: March 28, 1996
ENDED: May 21, 1996

APPEARANCES:

Ms. Katie Gaetjens, Assistant County Counsel for Multnomah County

Ms. Dianna J. Roberts, appellant

HEARINGS OFFICER: Mr. William W. Shatzer

STATEMENT OF THE CASE.

This proceeding is an appeal from a determination of the Multnomah County Adult Home Care Program revoking the license of the appellant Dianna Roberts to operate an Adult Care Foster Home.

On November 28, 1995, the Sanctions Specialist for the Multnomah County Adult Care Home Program issued a Notification of Administrative Sanctions pursuant to MCAR 890-080-200 et seq in which the Sanctions Specialist determined that the appellant had failed to conform to numerous provisions of the applicable Multnomah County Administrative Rules for Licensure of Adult Care Homes (Multnomah County Administrative Rules, Chapter 890). The Sanctions Specialist further determined that the violations were of such a nature as to warrant the revocation of appellant's Adult Care Home License under MCC 8.90.080(A) and, accordingly, revoked Ms. Roberts Adult Care Home license.

On December 15, 1995, Ms. Roberts filed a request for hearing on the license revocation pursuant to MCC 8.90.090 and MCAR 890-090-100. This proceeding followed.

PRELIMINARY RULING.

On February 12, 1996, the Multnomah County Adult Care Program issued an amendment to the November 28, 1995 Notice of Administrative Sanctions, making several additional determinations of non-compliance with the provisions of the Multnomah County Administrative Rules for Licensure of Adult Care Homes and determining that these constituted additional grounds for the revocation of Ms. Roberts' Adult Care Home license (Exhibit 9). At hearing, the County sought to introduce this amendment and offer evidence in support of the determinations contained therein. Upon the appellant's objection, the hearings officer allowed the County to offer evidence in support of the determinations contained in that amendment and reserved ruling on the appropriateness of the amendment and the admissibility of the evidence offered in support thereof.

The hearings officer subsequently determined that the purported amendment was inappropriate and improper for the reasons set for in the hearings officer's letter determination of April 16, 1996.

EXHIBIT A
PAGE 1 OF 6

Accordingly, none of the allegations contained in the February 12, 1996 amendment are properly a part of this proceeding and the evidence offered by the County in support thereof has not been considered by the hearings officer in this decision.

FINDINGS OF FACT AND CONCLUSIONS OF LAW.

As a preliminary matter, I must comment that this has been, without a doubt, the most difficult administrative hearing with which I have ever been involved in my more than eleven years serving as a hearings officer. Principally this was due to Ms. Roberts' constant dilatory and delaying tactics; her filing of numerous and voluminous motions, few, if any of which had any factual or legal basis; and her continued refusal to conform to established and orderly procedures.

However, the situation was exacerbated by the County's failure to implement and use regular and clear procedures in dealing with this case and the somewhat ad hoc nature of the procedures apparently used. In addition, in issuing its 14-page November 28, 1995 Notice of Administrative Sanctions, the County adopted a "scatter-gun" approach, by including every violation, purported violation, alleged violation or possible violation of the Multnomah County Administrative Rules which conceivably be laid against Ms. Roberts over the recent and not so recent past. Some of these alleged violations were of a trivial nature or not violations of the administrative rules; others were phrased in only the vaguest and indefinite terms; and, on others, the County never offered evidence at hearing. This unduly expanded the scope of this hearing and injected many issues which ultimately proved irrelevant.

In these findings of fact, I have considered and discussed only those allegations of violation which are of a substantial nature and on which the County offered substantial evidence in support thereof.

1. During the late evening of April 12, 1995 or the early morning hours of April 13, 1996, O, an elderly resident of the appellant's Adult Care Home, fell while using a commode. The appellant, Ms. Roberts, was on duty as the resident care giver at the time of the fall. Following the fall, Ms. Roberts apparently did nothing except to return O to her bed. When the day caregiver arrived for duty sometime before 9:00 am on the morning of April 13, the Ms. Roberts told her about the fall but provided the day caregiver with no special instructions as to monitoring or seeking medical treatment for O before Ms. Roberts left the Adult Care Home for the day.

O remained in bed in a comatose or semi-comatose condition throughout the day of April 13. No medical treatment or medical advice was sought by either the appellant or the day caregiver until sometime around 4:00 pm that afternoon when Ms. Roberts returned to the adult care home. At that time, the day care-giver related to Ms. Roberts O's lack of responsiveness and comatose or semi-comatose condition. Ms. Roberts' thereupon summoned emergency medical personnel. O was transported to the hospital where it was ultimately determined that O had suffered a fractured hip and a stroke although it is unclear whether the stroke was the result of, or the cause of, the fall. O never recovered sufficiently to return to the adult care home and died approximately two months after this incident.

There is some dispute as to the specific authority Ms. Roberts had delegated to the day caregiver to seek or obtain medical assistance, treatment, or advice for the residents of the adult care home including O. The day caregiver testified that she had been specifically instructed that she was not authorized to seek medical assistance or treatment for the residents except on Ms. Roberts' specific instructions. Ms. Roberts testified the day care-giver's testimony was incorrect and that the day care-giver did, in fact, have authority to call 911 or otherwise seek medical treatment if appropriate. I believe the day caregiver's testimony to be the more accurate and most satisfactorily explains the actual course of events. In any case however, Ms. Roberts' actions in this situation bespeaks a serious and substantial neglect of her duty to provide prompt and effective medical treatment for this resident.

There is no evidence that Ms. Roberts made any attempt to monitor O's vital signs at any time between the fall and the time emergency medical personnel were summoned at four o'clock on the afternoon of April 13. There is no evidence that she sought any medical advice from a physician, nurse, or other medical personnel as to whether further examination or treatment of O might be appropriate following her fall. While Ms. Roberts did inform the day caregiver of the fall, she apparently provided no instructions or guidance to the day caregiver about monitoring O's condition or whether or under what circumstances

medical treatment or advice should be sought for O during Ms. Roberts' absence. In short, Ms. Roberts undertook no measures to either seek medical treatment or to assure that medical treatment was not required. Despite the fact that O had suffered serious injury in the fall and had a potentially life threatening medical condition, O was left untreated and unexamined by medical personnel for a period well in excess of 12 hours.

Under MCAR 890-015-660, "neglect" is defined as, "failure to make a reasonable effort to discover what care is necessary to the well-being of a resident," and "withholding or failing to seek appropriate medical attention and care, or failure to direct staff ... to seek appropriate medical attention and care." Ms. Roberts' actions and lack of actions in this instance clearly fall within this definition.

When attempting to investigate this incident, Multnomah County Adult Care Home investigators requested inspection of Ms. Roberts' records on O including the appropriate progress notes and incident reports on O. MCAR 890-020-450 requires adult care home operators to keep, maintain, and make accessible to County personnel accurate resident records, including appropriate incident reports on all "falls, injuries, absences, medical emergencies or similar occurrences." Not only was Ms. Roberts unable to produce progress notes and incident reports on O documenting the circumstances surrounding her fall and subsequent events but Ms. Roberts was unable to produce any records on O at all. Ms. Roberts failure to create and/or maintain such records and or make such records available to County investigators was a violation of MCAR 890-020-450.

2. During the evening of June 7, 1995, V, another resident of Ms. Roberts' adult care home fell suffering injuries requiring hospitalization when she was left unattended on a commode. V had previously been hospitalized on several occasions within the previous month and was known to Ms. Roberts to have been in a weakened condition. Despite Ms. Roberts' knowledge of V's condition, she failed to provide supervision or assistance while V was using the commode.

Ms. Roberts' failure to provide adequate assistance and supervision for this resident constituted neglect under the provisions of MCAR 890-015-660.

After returning from the hospital on June 12, 1995, V suffered yet a second fall under similar circumstances which, while not requiring hospitalization, caused severe bruising over a considerable portion of her body. While Ms. Roberts was apparently providing supervision and assistance of V when this second fall occurred, such assistance was inadequate to prevent the fall. Moreover, despite the extensive bruising which V suffered as a result of this fall, Ms. Roberts' failed to seek medical treatment for V or to consult with medical personnel as to whether treatment was required. Ms. Roberts' failure to take adequate measures to prevent this second fall and to seek medical treatment or advice regarding V's injuries from this fall constitutes neglect within the provisions of MCAR 890-015-660.

In investigating these incidents, Multnomah County investigators requested to inspect the progress notes and incident reports on V for these periods. Ms. Roberts' was unable to produce any medical records, progress notes or incident reports on V for the months of either June or July, 1995. Failure to maintain these records and make them available to Multnomah County investigators is a violation of MCAR 890-020-450.

Upon V's discharge from the hospital on June 12, V was issued a prescription for 20 tablets of Tylenol III, a controlled drug. During the course of their investigation, Multnomah County investigators requested to examine the records of Ms. Roberts' administration of this medication and the unused portions of this prescription. Ms. Roberts' could produce neither the records nor the unused portions of the prescription, stating to County investigators that she had "dumped the unused portions of the prescription down the toilet." However, at hearing, Ms. Roberts produced a Disposal of Controlled Drugs form (Exhibit 206) demonstrating that these tablets had been disposed of at IPAC Pharmacy Services on March 26, 1996, clearly establishing that these tablets were within Ms. Roberts custody and control at the time the investigators requested to inspect them. MCAR 890-020-510(d) requires that all controlled substances be fully accounted for and MCAR 890-20-510(c) requires that all medications be kept in a locked, central location. Ms. Roberts' inability to produce these tablets which were clearly within her custody and control demonstrates that she could not, at that time, fully account for this medication nor was she maintaining it in a locked central location in violation of both MCAR 890-020-510(c) and (d).

3. On the evening of July 20, 1995, F, another elderly resident, fell while on her way to the bathroom and suffered injuries severe enough to require that 911 be summoned. F had called for assistance to aid her but no one responded to her calls. When no assistance was forthcoming after repeated calls for assistance attempted to walk to the bathroom unassisted when she lost her balance and fell. F had a previous history of falling and is only semi-ambulatory, of which Ms. Roberts was aware. Despite this, Ms. Roberts failed to provide supervision and assistance to F at night or to provide F with an adequate means of requesting such assistance at night.¹

Ms. Roberts' failure to provide F with assistance, to respond to her requests for assistance and to provide an adequate means of summoning assistance constitutes neglect within the provisions of MCAR 890-015-660.

4. MCAR 890-020-450 requires all adult care home operators to keep and maintain all required residents' personal and medical records for a period of three years and to make such records available to the County during the course of its inspections, interviews and investigations. On September 5, 1996, County investigators requested certain residents' records for the previous three-year period be made available to the investigators for inspection. Ms. Roberts failed to produce such records and failed to respond to repeated requests by County investigators to schedule an appointment to examine such records. After repeated requests to schedule such an appointment, Ms. Roberts finally agreed to make the requested records available for inspection on October 17, 1995. However, when County investigators arrived at Ms. Roberts' adult care home on October 17, to inspect the records, they were informed that the records were unavailable because they had been inadvertently destroyed by Ms. Roberts' housekeeper the previous day.

Quite frankly, Ms. Roberts' explanation for the non-production of the requested records is implausible. Its implausibility is reinforced by Ms. Roberts' initial refusal to produce the records and her consistent delaying tactics and non-cooperation in producing these records in response to the initial September 5, request.

MCAR 890-020-450 requires adult care home operators to keep and maintain residents' records and to make them available for inspection by the County. Ms. Roberts' failure to do so, for whatever reason, is clearly in violation of those provisions of the County Administrative Rules.

5. MCAR 890-020-230(e) requires that adult care home operators provide the County with a criminal record release authorization form "prior to or at the time of employment" for all newly hired resident managers and caregivers. On or about July 20, 1995, Ms. Roberts employed a Velma Elizabeth Spruell as a caregiver at her adult care home but failed to provide the County with the required criminal record release form until August 11, 1995. Ms. Roberts failure to provide this release form "prior to or at the time of employment" was in violation of MCAR 890-020-230(e).

6. MCAR 890-020-260(a) requires, "Operators...shall cooperate with Department personnel or designees in inspections, interviews, complaint investigation procedures,... and shall allow full access of Department personnel or designees to the Adult Care Home facility, to its caregivers, residents, and other occupants and to its records concerning residents or pertaining to the operation of the Adult Care Home." The evidence establishes that Ms. Roberts has failed to demonstrate the degree of cooperation required under MCAR 890-020-260(a).

The County initially requested of Ms. Roberts access to Ms. Roberts' residents' records on September 5, 1995. These records are required to be maintained and stored on the adult care home premises pursuant to ¹ MCAR 890-020-450(b). Ms. Roberts refused to make those records available for inspection at that time and at a subsequent visit. In a further attempt to obtain access to the records, the County investigators left several phone messages with Ms. Roberts' answering machine, requesting she schedule an appointment

¹ Ms. Roberts had provided small bells in the residents' rooms as a night call system. However, the evidence demonstrates that these bells were insufficiently loud to be heard in Ms. Roberts' living quarters if the bells sounded at night in the residents' rooms, especially if the doors were closed, and the bells were inadequate as a night call system.

for the inspection of those records. Those phone messages were not returned. In one instance where County investigative personnel were successful in reaching Ms. Roberts personally by phone, she refused to schedule an appointment for the inspection of the records. While Ms. Roberts did, eventually, agree to an appointment for inspection of the records on October 17, 1995, some six weeks after the inspection of the records was initially requested, inspection never occurred because, as related above, Ms. Roberts claimed the records had been destroyed the preceding day.

There is little question that under the provisions of MCAR 890-020-260(a), County investigative personnel had an absolute right to examine and inspect the requested records. Ms. Roberts' action display a repeated obstruction and non-cooperation with the County's attempts to obtain access to these records - which were never, ultimately, made available to the County. Ms. Roberts' actions were a clear violation of her duty to cooperate and all full access under MCAR 890-020-260(a).

7. Finally, there are the myriad of incidents involving Ms. Roberts which, while not involving violations of specific violations of the Multnomah County Administrative rules, do evince a lack of good judgment and sound character on her part.

Ms. Roberts, against the wishes and without the consent of F and F's family, cancelled a doctor's appointment F had previously made and rescheduled the doctor's appointment with a physician of Ms. Roberts' choosing.

Ms. Roberts made numerous repeated and unsubstantiated complaints against her visiting contract nurse, including not only complaints to the nurse's supervisor but also to the State Nursing Board.

Ms. Roberts represented herself in brochures and advertising as being a Certified Nursing Assistant when, in fact, her CNA registration had lapsed in 1992.

When F and Ms Roberts got into an argument, Ms. Roberts summoned 911 emergency medical services to her adult care home in an attempt to cause F to be removed from her home to the hospital when, in fact, there was no medical emergency. This was an inappropriate means of dealing with the situation.

Ms. Roberts made numerous attempts to intimidate caregivers, the visiting contract nurse, a State ombudsman and others into signing statements favorable to or exculpatory of Ms. Roberts.

Ms. Roberts misrepresented the statements and position of the State Ombudsman to County administrative personnel.

While none of these directly violate any specific Multnomah County Administrative Rule and, taken in isolation, might not be particularly significant, when taken together and in conjunction with the specific MCAR violations outlined above, they do evince a pattern which bespeaks a lack of good judgment and sound character. MCAR 890-020-200(b) and (c) requires that operators of adult care homes possess good judgment and good personal character. In the County's determination, the Sanctions Specialist specifically found that Ms Roberts, in fact, lacked the good judgment and sound personal character required under MCAR 890-020-200 of operators of adult care facilities. Based upon the record in this proceeding, I find no error in that determination.

Under the provisions of Multnomah County Code 8.90.080 (A), the license of an adult care home operator may be revoked when the owner or operator has failed to comply with the applicable Multnomah County Administrative Rules for the Licensure of Adult Care Homes. As the evidence in this proceeding clearly establishes that not only did Ms. Roberts violate such rules but that she did so on multiple and repeated occasions, often putting at risk the health, safety or welfare of her residents.

The determination in the Notice of Administrative Sanctions dated November 28, 1995 should be sustained.

ORDER AND DETERMINATION:

The determination in the Notice of Administrative Sanctions dated November 28, 1995 revoking the Adult Care Home License of the appellant, Dianna Roberts, is hereby SUSTAINED.

This order and determination has been mailed to the parties on June 14, 1996 and shall become final on July 5, 1996 unless written exceptions are filed with the Board of County Commissioners prior to such date.

Dated:

June 14, 1996

William W. Seif
Code Hearings Officer

WWS:sj

July 2, 1996

Deborah L. Bogstad
Office of the Board Clerk
Multnomah County Commissioners
Suite 1510
1120 S.W. 5th Ave.
Portland, OR 97204

CERTIFIED MAIL
RRR - P 354 579 023

RE: DIANNA J. ROBERTS ACH LICENSE REVOCATION APPEAL # 161035
REQUEST FOR REVIEW OF HEARINGS OFFICER'S DECISION

By way of this letter I am requesting a review of Mr. William W. Shatzer's Order and Determination dated June 14, 1996 regarding the revocation of my Adult Care Home License.

I am requesting a NEW Hearing before an unbiased Code Hearings Officer:

- 1) Due to the extreme prejudice evidenced by Mr. Shatzer's tone, mannerisms, and body language.
- 2) Failure to schedule a prehearing conference to inform defendant of Code Office Appeal Hearings procedures, i.e., disclosure procedures, witness list requirements, subpoena procedures.
- 3) Rulings on motions, failure to rule on motions.
- 4) **Failure to remand to ASD once clear and unequivocal evidence was presented that ASD had not complied with its their own governing statutes, i.e., regarding conferences requested within the time frame outlined in the MCAR's.**
- 5) Failure to respect defendant's physician's orders.
- 6) Failure to respond to defendant's request that hearing be adjourned until the following day due to defendant's frail physical conditions, while under doctor's written orders not to even be participating in a 'formal hearing', (and, subsequent order to continue with hearing).
- 7) Plus, numerous other procedural errors.

Constitutional Violations:

- 1) 1st Amendment Right to allow video taping of my hearing by a member of the press.
Reference: Public Meetings Law - ORS 192.610 through ORS 192.690.
- 2) 6th Amendment Right to Assistance of Counsel, i.e., Terry Lee and a later request to retain an attorney.

- to the introduction of evidence and, if so, what kind of objections may be made, and an explanation of the burdens of proof or burdens of going forward with the evidence; and
- 2) Whether the party may request a recess in the proceedings if the party determines that representation by an attorney is necessary to the protection of the party's rights. (A recess was, in fact, requested, and denied.)

Violation of ORS 183.413 (1): Failure to "fully inform" parties of "their rights and remedies with respect to actions taken by state agencies."

This failure affected defendant's right to call witnesses from her 'real' witness list -- not the one prepared in two (2) minutes in the hearings room (had defendant been informed this list was not amendable; but, in fact, sealed in concrete, defendant would have asked for time to prepare one); reference: Katie Gaetjens motion to strike defendant's witness list -- why would Katie want to suppress defendant's witnesses -- why would Katie not want Mr. Shatzer to hear these witnesses -- why would she not call key witnesses on ASD's original witness list, i.e., Jean DeMaster, Heather Stewart, Mary M. Fassell?

The only viable reason Katie Gaetjens would need to suppress witnesses, would be to cover up the violations of the Aging Services Division, i.e., photocopies of confidential medical records copied by Mary M. Fassell without written permission as required by Oregon State Law were presented into evidence by ASD and allowed by Mr. Shatzer. (Apparently, the primary reason Katie Gaetjens was required to sit through this hearing and be 'on the record' as representing the ACHP; although Mary M. Fassell still remained the prosecuting attorney, in actuality, as Katie acted only as a bystander and coach to Mary.)

A hearing is for parties to be heard -- and what Mr. Shatzer is under contract to do, a contract, in fact, which Katie signed also! A recess was requested by the defendant to obtain representation by an attorney and denied by Mr. Shatzer! (Further indication of the extreme prejudice demonstrated throughout the appeal hearing by Mr. Shatzer!)

Other issues of argument:

- a) Witnesses were allowed in the hearing room against the objection of the defendant. This allowed for the witnesses to hone their testimony according to previous testimonies.

- 3) 14th Amendment Right to equal protection of the laws. (Only allowed 1 week to prepare Closing Argument -- ref: letter dated May 27, 1996.)

Violation of ORS 183.413 (2): Failure of ASD to notify defendant of statutory notice of rights in this contested case, either orally or in writing of the following:

- 1) Whether a record will be made of the proceedings;
- 2) The manner of making the record;
- 3) Whether the record will be available to the parties;
- 4) The function of the record-making with respect to the perpetuation of the testimony and evidence;
- 5) The function of the record-making with respect to any appeal from the determination or order of the agency;
- 6) Whether an attorney will represent the agency in the case;
- 7) Whether parties ordinarily and customarily are represented by attorneys;
- 8) The title and function of the person presiding at the hearing;
- 9) The manner in which the testimony and evidence taken by the person presiding at the hearing are reviewed;
- 10) The effect of any determination by the person presiding at the hearing.
- 11) What person or group makes the final determination on behalf of the agency;
- 12) Whether the person presiding at the hearing is or is not an employee, officer or other representative of the agency;
- 13) Whether the person presiding at the hearing has the authority to make a final independent determination;
- 14) Whether there exists an opportunity for an adjournment to gather and present additional evidence;
- 15) Whether there exists an opportunity after the hearing and before the final determination or order to object to any proposed findings of fact, conclusions of law, summary of evidence, or recommendations of the officer presiding at the hearings; and,
- 16) A description of the appeal process from the determination or order of the agency;

In addition, in that defendant was not represented by an attorney, defendant was required to be informed, either orally or in writing of the following; however, was not:

- 1) Of a general description of the hearing procedure including: the order of presentation of evidence; what kinds of evidence are admissible; whether objections may be made

Deborah Bogstad, Court Clerk

July 2, 1996

Page 4 of 5

- b) Mr. Shatzer limited the testimony of the defendant to **ONLY 8 HOURS!**
- c) Mr. Shatzer refused to accept documents presented for evidence by the defendant, even when requested that they be accepted just 'for the record'.
- d) Official Code Hearing Office record of this appeal hearing is incomplete. The first 15 minutes of the hearings appears to have been taped over, intentionally, to cover up the discussion over allowing the hearing to be videotaped by the press.
- e) **Evidence of Mary M. Fassell cutting, splicing, and editing out sections of a taped conference in the ACHP's office, was not allowed to be introduced on the record, or otherwise. (Affidavits of attendees, or of the tapes themselves -- further suppressed evidence of violations by the Aging Services Division.)**
- f) Motion presented on May 27, 1996 was not ruled on or responded to. This motion was presented prior to the Closing Arguments being presented on May 28, 1996. This motion was lengthy (approx. 8-10 pages -- copy attached). Due to the seriousness of the motion, i.e., that Mr. Shatzer disqualify himself for reasons noted above as well as conspiracy allegations (a federal offense), this motion needs to be addressed -- not washed under the carpet.

Further reason for review, Katie Gaetjen's, Closing Arguments were laced with misrepresentations and innuendoes not substantiated by actual testimony presented during the hearing.

In that the burden of proof lies with the Aging Services Division, based upon the actual evidence presented, the evidence is insufficient to merit revocation of Dianna Roberts adult care home license.

In closing, Dianna Roberts' position is that irreparable injury/financial has occurred by sanctions placed on her home by the ACHP. To avert further injury, and to enable her to continue operation of her Adult Care Home, which is, currently, still providing care to her long term elderly residents whose life, health, safety and welfare would be jeopardized, IF they were forced to relocate, AND whose families have contested previous attempts by the ACHP to force relocation in writing by way of exercising their Residents' Rights of Appeal (Note: MCAR 890-090-200, specifically, 890-090-280), defendant request an exception or stay of previous sanctions placed on her home by the ACHP with regard to acceptance of new residents, until review by the Multnomah County Commissioners, review of Mr. William W. Shatzer's conduct before the Oregon Government Ethics Commission, AND all further appeal rights have been exhausted by the defendant.

Deborah Bogstad, Board Clerk

July 2, 1996

Page 5 of 5

Respectfully,

ROSEWOOD CARE, INC. (Est'd. 1985)



Dianna J. Roberts

Owner/Opertor

Attachment (1) Motion dated May 27, 1996

cc: William W. Shatzer

Katie Gaetjens

Jim McConnell

Carol Rex

Multnomah County Commissioners

Pete Kasting

Lawrence Kressel

Jean DeMaster

Robert F. Blackmore, Dunn Carney Allen Higgins & Tongue

— Stein

CERTIFICATE OF SERVICE

I, hereby, certify that on the 2nd day of July, 1996, I have made service of the foregoing letter on Deborah Bogstad, Board Clerk of the Multnomah County Commissioners, by CERTIFIED MAIL to her regular office address to-wit:

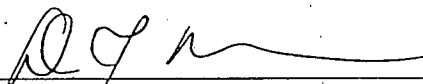
Deborah Bogstad, Board Clerk
Multnomah County Commissioners
1120 S.W. 5th Ave.
Rm. 1510
Portland, OR 97204

cc: Wm. W. Shatzer
Code Hearings Officer
1120 S.W. 5th, Rm. 1017
Portland, OR 97204

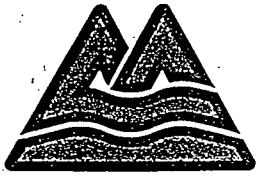
FAX: 823-4347

Catherine Gaetjens, Sr. Asst. County Counsel
Multnomah County Oregon
1120 S.W. 5th Ave., Suite 1530
Portland, OR 97204

FAX 248-3377



Dianna J. Roberts, Defendant
19390 N.E. Multnomah Ct.
Portland, OR 97230



MULTNOMAH COUNTY OREGON

OFFICE OF COUNTY COUNSEL
1120 S.W. FIFTH AVENUE, SUITE 1530
P.O. BOX 849
PORTLAND, OREGON 97207-0849
(503) 248-3138
FAX 248-3377

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN, CHAIR
DAN SALTZMAN
GARY HANSEN
TANYA COLLIER
SHARRON KELLEY

COUNTY COUNSEL
LAURENCE KRESSEL

CHIEF ASSISTANT
JOHN L. DU BAY

ASSISTANTS
J. MICHAEL DOYLE
SANDRA N. DUFFY
KATIE GAETJENS
GERALD H. ITKIN
STEVEN J. NEMIROW
HELLE RODE
MATTHEW O. RYAN
JACQUELINE A. WEBER

October 6, 1995

BY FAX AND REGULAR MAIL

Mark Cottle
Newton, Cottle and Westenhaver, P.C.
4000 Kruse Way Place, Bldg 1, Suite 265
Lake Oswego, OR 97035

RE: Roberts Adult Care Home license hearing

Dear Mr. Cottle:

This letter is to confirm our agreement to consolidate your client's requested hearing regarding suspension of admissions with a hearing on any administrative sanctions that might be imposed after the investigations of the six outstanding complaints against Ms. Roberts' home are completed. By copy of this letter, I am notifying the Hearings Officer of this agreement.

Very truly yours,

LAURENCE KRESSEL, COUNTY COUNSEL
FOR MULTNOMAH COUNTY, OREGON

By Katie Gaetjens
Katie Gaetjens
Assistant County Counsel

c: William Shatzer, Hearings Officer, City of Portland
Mary Fassell, Adult Care Home Program

F:\DATA\COUNSEL\WPDATA\EIGHTEEN\COTL-CON.LET

OFFICE COPY

EXHIBIT C
PAGE 1 OF 2

MULTNOMAH COUNTY, OREGON

Office of County Counsel
1120 SW Fifth Avenue, Suite 1530
P.O. Box 849
Portland, Oregon 97207-0849
(503) 248-3138
FAX: 248-3377



fax

to: Mark Cottle

fax #: 636-6995

from: Katie Gaetjens

date: October 6, 1995

pages: 1

NOTES:

Confidentiality and Transmission Problems:

Confidentiality: This facsimile transmission may contain confidential and privileged information. The information contained in this transmission is intended for the addressee only. If you are not the addressee, please do not review, disclose, copy, or distribute this transmission. If you have received this transmission in error, please contact the sender immediately.

Transmission Problem: If you do not receive all pages or experience other transmission problems, please call the sender.

1 BEFORE THE BOARD OF COUNTY COMMISSIONERS

2 MULTNOMAH COUNTY

3 In the Matter of the Revocation
4 of the Adult Care Home
5 License of Dianna Roberts

City Hearing Office
Case No. 161035

AFFIDAVIT OF KATIE GAETJENS

6
7 I, KATIE GAETJENS, being duly sworn, do depose and say that:

8 1. I am Assistant County Counsel for Multnomah County. I represent the Department of
9 Aging Services Adult Care Home Program, and have been consulted frequently during the past year
10 regarding Ms. Dianna Roberts' license status.

11 2. During my representation of the Adult Care Home Program in this matter, I spoke
12 frequently to both Mark Cottle and James Niedermeyer, Ms. Roberts' second and third attorneys
13 respectively.
14

15 3. My notes indicate I spoke directly or by voice mail with Mr. Cottle on 9/21, 10/5, 10/13,
16 10/14, 10/16, 10/17, and 11/1/95. On several of these dates more than one call occurred. A meeting
17 was set for 10/13/95 at Mr. Cottles' request, but canceled with his agreement because Ms. Roberts
18 had refused to permit review of records pertinent to the complaints and the meeting.

19 4. I also corresponded with Mr. Cottle on several occasions, including an October 6 letter
20 confirming our telephone agreement that he would postpone a conference on the suspension until
21 final agency action had been taken so that these matters could be discussed together. (Exhibit "C")
22

23 5. My notes also indicate I spoke with Mr. Niedermeyer on 10/25, 10/26, 12/11, and
24 12/18/95. He requested a conference after each extension of the suspension of admissions, but
25 agreed to consolidate the conference regarding the agency's final action, since they were likely to
26 involve the same complaints.

6. In mid-December, Ms. Roberts informed the ACHP that she was no longer represented by counsel. I confirmed this by telephone with Mr. Niedermeyer on 12/18/95 and by correspondence on 12/19/95.

7. On 12/15/95, Ms. Roberts requested a hearing on the revocation. On 1/5/96, the ACHP requested Ms. Roberts offer possible times for a conference (Exhibit ("F")), which she declined to do. (Exhibit "G").

DATED this 24th day of July, 1996.

Katie Gantz

Katie Gaetjens, OSB #88210
Assistant County Counsel
Of Attorneys of Department of Aging Services

SUBSCRIBED AND SWORN to before me this 24th day of July, 1996.

Reta L. Magronis

NOTARY PUBLIC FOR OREGON

My commissioner expires: Sept. 3, 2000



H:\Data\Advisory\Gaetjens\RobertsKGaetjensAffidavit.doc

December 15, 1995

Mary M. Fassell, Attorney
Multnomah County
Adult Care Home Program
421 S.W. 5th, Room 405
Portland, Oregon 97204-2221

Re: Hearings Request for Revocation of my Adult Care Home
License - Your Letter of November 28, 1995

Dear Mary:

By way of this letter I formally make a request for a Hearing on the revocation of my Adult Care Home License outlined in your 14 page letter of November 28, 1995 and 66 pages of attachments.

The reasons for the hearing will be to refute the issues outlined in subject letter. Please reference the attached letters of request from my Attorney, Mr. James Niedermeyer:

- October 26, 1995 - Request for Conference re Suspension of New Admissions - Letter 10/13/95
- October 26, 1995 - Request for Conference re Fine - Letter 10/20/95
- November 17, 1995 - Request for Conference re Additional Suspension of New Admissions - Letter 11/9/95

All three (3) letters were submitted within the required twenty (20) day time frame outlined in the MCAR's. None of these letters were acknowledged in writing as being received nor has a conference been granted within the ten (10) days of the request as required by MCAR 890-080-330.

Respectfully,

Dianna J. Roberts

Dianna Roberts
Rosewood Adult Foster Care
19390 N.E. Multnomah Ct.
Portland, OR 97230

Mary M. Fassell
December 15, 1995
Page 2

Attachments (3)

cc: Catherine Gaetjens, Multnomah County Counsel
Carole Isaman, Licensing Agent
Annette Potts, Protective Services
Jean DeMaster, Manager Adult Care Home Program
Jim McConnell, Director - Aging Services Division
Multnomah County Commissioners
Grover Simmons, Lobbyists
Roger M. Auerbach, Administrator Senior & Disabled Services Div.
Senator John Lim

B. Stani

P.S. Mary, I feel your letter of Revocation is premature considering you only enclosed the findings of the six (6) complaints received FROM my ONE former resident with a mental disorder, or INVOLVED this ONE resident in some manner without allowing me the opportunity to refute these allegations in an Administrative Conference as required by MCAR 890-080-320, NOR were the complaints investigated in a timely manner as required by SB 549.

Further, you did not site any of my residents as being in, "imminent danger." I anticipate ALL four (4) of my ladies will be exercising their Resident Hearing Rights against, "involuntary termination of residency -- transfer trauma," in MCAR 890-090-200 thru 280.

I feel that your personal aggressive attack on my home stems from our conflict in 1992 at which time you threatened to fine me \$1,000 for not being cooperative for which I received an apology. I do not feel it was inappropriate to ask for something in writing, nor did I in 1992. You were probably still in high school when I opened my home in 1985; but I have to agree, you've come a long way! Your power, however, may not have been appropriately delegated.

JAMES C. NIEDERMEYER

ATTORNEY AT LAW
2100 S.E. BELMONT STREET
PORTLAND, OREGON 97214

PHONE (503) 233-8550
FAX (503) 233-8560

P.O. BOX 4078
PORTLAND, OREGON 97208

October 26, 1995

HAND DELIVERY

Supervisor
Adult Care Home Program
Aging Services Division
Multnomah County
421 S.W. Fifth Ave., Room 405
Portland, OR 97204

Re: Dianna Roberts
Communication Dated 10/20/95 from Mary Fassell
Concerning Fine (Copy Enclosed)

Dear Supervisor:

In accordance with the authorization below, request
is made for a hearing in regard to the above matter.

Very truly yours,

James C. Niedermeyer

JCN:mc

Encl.

cc w/encl.: Catherine Gaetjens, County Counsel

IT IS SO AUTHORIZED.

Dianna Roberts

JAMES C. NIEDERMEYER

ATTORNEY AT LAW
2100 S.E. DELMONT STREET
PORTLAND, OREGON 97214

PHONE (503) 233-8550
FAX (503) 233-8560

P.O. BOX 4078
PORTLAND, OREGON 97208

November 17, 1995

HAND DELIVERY

Supervisor
Adult Care Home Program
Aging Services Division
Multnomah County
421 S.W. Fifth Ave., Room 405
Portland, OR 97204

Re: Dianna Roberts
Communication Dated 11/09/95 from Jean DeMaster
(Copy Enclosed)

Dear Supervisor:

In accordance with the authorization below, request
is made for a conference as well as a hearing in regard
to the above matter.

Very truly yours,

James C. Niedermeyer

JCN:mc

Encl.

cc w/encl.: Catherine Gaetjens, County Counsel

APPROVED:

Dianna Roberts

JAMES C. NIEDERMAYER

ATTORNEY AT LAW
2100 S.E. HELMONT STREET
PORTLAND, OREGON 97214

PHONE (503) 233-8550
FAX (503) 233-8560

P.O. BOX 4078
PORTLAND, OREGON 97208

October 26, 1995

HAND DELIVERY

Supervisor
Adult Care Home Program
Aging Services Division
Multnomah County
421 S.W. Fifth Ave., Room 405
Portland, OR 97204

Re: Dianna Roberts
Communication Dated 10/13/95 from Jean DeMaster
Concerning Suspension (Copy Enclosed)

Dear Supervisor:

In accordance with the authorization below, request
is made for a conference as well as a hearing in regard
to the above matter.

Very truly yours,

James C. Niedermeyer

JCN:mc

Encl.

cc w/encl.: Catherine Gaetjens, County Counsel

IT IS SO AUTHORIZED.

Dianna Roberts



MULTNOMAH COUNTY OREGON

AGING SERVICES DIVISION (503) 248-3646
ADULT CARE HOME PROGRAM (503) 248-3000
FAX: (503) 306-5722
421 SW 5TH, ROOM 405
PORTLAND, OR 97204-2221

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN • CHAIR OF THE BOARD
DAN SALTZMAN • DISTRICT 1 COMMISSIONER
GARY HANSEN • DISTRICT 2 COMMISSIONER
TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

RECEIVED

JAN 09 1996

COUNTY COUNSEL FOR
MULTNOMAH COUNTY, OR

January 5, 1996

Ms. Dianna Roberts
19390 N.E. Multnomah Court
Portland, Oregon 97230

Dear Ms. Roberts:

I have received your December 15th letter requesting a hearing on the November 28, 1995 revocation of your adult care home license. Your letter does not indicate whether you want a conference on the revocation, but pursuant to MCAR 890-080-310 we want to schedule an administrative conference with you on this matter.

As your letter indicates, your attorney, James Niedermeyer requested conferences on the earlier suspensions of admission. With his agreement, a conference on the suspensions was postponed until the Department took action on the complaint underlying the suspension. He agreed that at that time you and he would decide whether to seek a consolidated conference and hearing.

Mr. Niedermeyer informed our attorney on December 18th that he is no longer representing you, and that to the best of his knowledge you are no longer represented by an attorney. If this information is not correct please notify us as soon as possible.

At this time, we need your response to the following questions:

1. Do you want a separate conference on the suspension of admissions dated August 18, September 15, October 14 and November 11, 1995? If a conference is held on these suspension, the only issue will be whether the Adult Care Home Program had received numerous complaints and therefore had a basis for taking immediate action.

2. Do you want a hearing on the suspensions of admission separate from the hearing on revocation of your license? Again, the issue at the suspension hearing would be whether the Adult Care Home Program's decision to suspend new admissions was supported by the receipt of numerous complaints.

3. Do you want to consolidate the suspension and revocation conferences and hearings? Because both the suspension and the revocation are based on essentially the same complaints and

evidence, it appears that consolidating the proceedings would be a more effective use of everyone's time. If you do want to consolidate these proceedings, the January 18, 1996, hearing date will not be adequate. Given the numerous complaints and witnesses involved, a longer hearing, scheduled well in advance, will be necessary.

In any case, the hearing office notified us that you verbally requested a four month set over of the January 18th hearing. They indicated they told you the hearing officer was not willing to reschedule a hearing unless he received a request from you in writing. If you make such a request in writing we agree to cancel the January 18th hearing so we can discuss setting a time and length and issues of the hearing, but we do not agree to a lengthy setover.

We would also like you to write us the specific violations with which you disagree so that we can begin to narrow the issues for hearing. We will also need an estimate of how much time you will need to present your objections before we can determine how long a hearing to request. Both of these matters could be discussed in a conference before the hearing is scheduled.

Please let me know as soon as possible whether you want to consolidate these proceedings, or whether you want to attempt to handle them separately. Please provide me as well with three dates in the next two weeks when you could be available for an administrative conference. We will then contact you with a firm date for the conference. Once we have met together, we can arrange a hearing schedule that fits the situation. If it is not possible to meet within the next two weeks we will set a hearing date without your involvement.

Sincerely,

Mary M. Fassell

Mary M. Fassell, Sanctions Specialist
Multnomah County Adult Care Home Program

c: Jean DeMaster
Katie Gaetjens, Multnomah County Counsel

Post-It™ brand fax transmittal memo 7671		# of pages • 3
To	Katie Gaetjens	
Co.	County Counsel	
Dept.		
Fax #	3377	
From	Mary Fassell	
Co.	ACHP	
Phone #	248-3000x2624	
Fax #		

January 18, 1996

JAN 22 1996

Mary Fassell, Sanctions Specialists
 Licensed Oregon State Bar
 Multnomah County Oregon
 Adult Care Home Program
 421 S.W. 5th, 4th Floor
 Portland, OR 97204

Dear Mary:

Re: Your Letter of January 5, 1996 -- Received January 11, 1996

Pursuant to your first paragraph, it would seem quite evident, since I have paid three different attorneys to request a conference for me, that, yes, I do want a conference. However, now that I am no longer represented by an attorney, you demand that I make arrangements within two (2) weeks to come in for a conference ({Para. 4, Pg. 2})!

In your second paragraph on the first page, you state that, "conferences on the suspensions was postponed until the Department took action on the complaint underlying the suspension." I am not aware of any agreement or proposed conference. Please send me correspondence regarding this proposed agreement. I agreed to and signed three (3) letters of request for conferences on October 26, 1995 (2 letters) and on November 17, 1995 (1). In addition to Mr. Niedermeyer's requests, my two (2) previous attorneys also made numerous request for conferences on September 6, September 18, September 22, October 20, and October 31, 1995. Again, I received no conference, while I was represented by legal counsel. For you to demand, NOW, that I come in for a conference within two (2) weeks, or you will schedule a, "hearing without my involvement," (Para. 4, Pg. 2) is an attempt to thwart my due process.

I am currently in the process of interviewing attorneys to represent me, which I feel are qualified and have experience in this area of law. Mary, I have had three (3) attorneys review the file you provided me; and that you and Jean DeMaster indicated in your letters of August 18, September 15, October 13, November 9th and November 28th, "would automatically become part of the information available to a Hearing Officer." On January 12, you informed me that this "file" was confidential; and , therefore, will not be available to a hearing office. At attorney's hourly rate of \$150. per hour to review 379 pages has caused me undue expense. This issue must be resolved before I am able to retain a new attorney to avoid further unnecessary expense.

Since May 1995, Aging Services Division has refused to refer anyone to my home, as well as stopped other Medicaid residents from moving into my home that had chosen my home through private referrals. Just for 1995, this represents a loss to me of \$12,200, as the room available had been renting for \$1,650/mo. I'm sure anyone would agree this, along with the attorney fees

Mary Fassell
January 18, 1996
Page 2 of 3

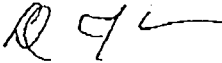
accumulating, is quite a financial loss to bear ON ALLEGATIONS ALONE -- allegations from a longtime (6 years) resident with a well-documented history of a mental disorder and from a disgruntled fired employee. And, although some of those allegations were recently partially substantiated; I have substantial evidence that this was a dishonest, politically motivated investigation spearheaded initially by you, Mary.

Had you not prevented me from being assigned a qualified geriatric psychiatric nurse, as I had requested in the spring, this all could have been prevented. Flonnie McClane would still be in my very warm, comfortable, and beautiful home -- not facing the possibility of going into a nursing home, which is presently being proposed by the current Case Manager. As difficult as this resident was, I enjoyed her very much as did my other residents -- MOST OF THE TIME! And, I firmly believe she was as happy here as she is capable of considering her mental disorder.

In closing, choosing from your list of three (3) alternatives (Pg. 1), is a decision for my next attorney. I have my own opinion; however, must reserve it until I again have legal counsel. Further, my attending any semblance of a conference without legal counsel considering the collusion I experienced in the June 22 and 26th conferences is out of the question.

Regards,

ROSEWOOD CARE, INC.



Dianna J. Roberts
Owner/Manager (Since 1985)



CITY OF
PORTLAND, OREGON
HEARINGS OFFICE

1120 S.W. 5th Avenue, Room 1017
Portland, Oregon 97204-1960
Land Use Hearings (503) 823-7719
Code/Towing Hearings (503) 823-7307
FAX (503) 823-4347
TDD (503) 823-6868

March 20, 1996

Ms. Dianna Roberts
19390 N.E. Multnomah Court
Portland, OR 97230

via fax to 661-4763

SUBJECT: Appeal of Dianna Roberts, No. 161035

Dear Ms. Roberts:


We received your letter today requesting a further 60-day postponement of your hearing, which is scheduled for March 28 and 29, 1996.

Mr. Shatzer is unavailable this week and so will not be able to rule on your request. I will bring your request to his attention as soon as he returns on Monday.

However, I must point out to you that he denied a similar motion which you made on March 14. At this point I can only advise you to be prepared to proceed with the hearing on March 28, as all indications are that Mr. Shatzer will, indeed, open the hearing at the time scheduled.

Also, as a reminder, Mr. Shatzer previously decided to hear the case on the revocation of your license first (our case #161035, the case which will be heard on March 28-29) and to hold the appeal of the suspension (our case #154001) in abeyance for the time being.

Cordially,


DARLA BROBERG
HEARINGS CLERK

cc: Mary Fassell, Multnomah County Adult Care Home Program
(via fax to 306-5722)
Katie Gaetjens, Assistant County Counsel (via fax to 248-3377)

EXHIBIT H
PAGE 1 OF 2

March 14, 1996

Ms. Dianna Roberts
19390 N.E. Multnomah Court
Portland, OR 97230

SUBJECT: Appeal of Dianna Roberts, No. 161035

Dear Ms. Roberts:

Your hearing was originally set over 60 days pursuant to your request of January 12, 1996. Further delays in this matter would not be warranted and would unduly delay resolution of this proceeding.

Both you and Multnomah County should be prepared to proceed in this matter on the scheduled hearing date of March 28, 1996.

Very truly yours,

William W. Shatzer
Code Hearings Officer

cc: Ms. Mary Fassell, Multnomah County Adult Care Home Program
cc: Ms Katie Gaetjens, Sr. Ass't County Counsel



CITY OF
PORTLAND, OREGON
HEARINGS OFFICE

1120 S.W. 5th Avenue, Room 1017
Portland, Oregon 97204-1960
Land Use Hearings (503) 823-7719
Code/Towing Hearings (503) 823-7307
FAX (503) 823-4347
TDD (503) 823-6868

April 22, 1996

Ms. Catherine G. Gaetjens via fax to 248-3377
Assistant County Counsel
Multnomah County
1120 S.W. 5th Avenue, Room 1530
Portland, OR 97204

Ms. Dianna Roberts via fax to 661-4763
19390 N.E. Multnomah Court
Portland, OR 97230

SUBJECT: Appeal of Dianna Roberts, No. 161035

Ladies:

The appellant has submitted a supplemental witness list of some 57 additional witnesses whom she proposes to call in this proceeding. The County has moved for an order striking this supplemental witness list.

After a review of the records and files in this proceeding I have determined that the supplemental witness list is either not timely filed or that the witnesses on the supplemental list do not have relevant and material testimony, or both.

The original order of the hearings officer required the parties to exchange witness lists at the commencement of the County's case in chief. This order was, of course, entered at the appellant's request. The appellant was given leave to amend or supplement her witness list as might be necessary to respond to the allegations raised and the evidence offered in support of the County's February 12, 1996, supplemental notice of sanctions only.

I subsequently determined that the allegations contained in the February 12, 1996, supplemental notice of sanctions could not properly be considered in this proceeding and that any evidence offered in support thereof would not be considered.

Thus, to the extent the witnesses on the supplemental witness list are intended to respond to the allegations contained in the supplemental notice of sanctions or the evidence offered in support thereof, those are no longer issues in this proceeding, and the testimony of such witnesses would be irrelevant and immaterial. If the witnesses are intended to respond to the allegations contained in the original November 28, 1995, notice of sanctions and the evidence offered in support thereof, those witnesses should have been included in appellant's original witness list, and their inclusion by way of a supplemental list at this late date is untimely.

The County's motion to strike appellant's supplemental witness list is allowed.

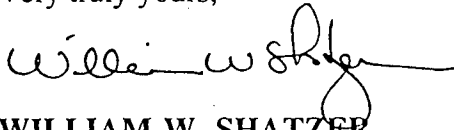
EXHIBIT I
PAGE 1 OF 2

Catherine G. Gaetjens and
Dianna Roberts
April 22, 1996
Page No. 2

Appellant should, of course, have an adequate opportunity to present all relevant and material evidence in support of her positions in this proceeding. Upon the motion of the appellant and a showing that there are additional witnesses whose existence or identity were unknown and could not, with the exercise of reasonable diligence, have been known to appellant at the time of the exchange of the original witness lists, and upon showing of the general relevance and materiality of their testimony, such witnesses will be allowed.

With that exception, appellant may call those witnesses on her original witness list only.

Very truly yours,



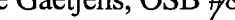
WILLIAM W. SHATZER
CODE HEARINGS OFFICER

WWS:db

cc: Mary Fassell via fax to 306-5722

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Ms. Dianna J. Roberts
19390 N.E. Multnomah Court
Portland, Oregon 97230


Katie Gaetjens, OSB #88210
Assistant County Counsel



MULTNOMAH COUNTY OREGON

OFFICE OF COUNTY COUNSEL
1120 S.W. FIFTH AVENUE, SUITE 1530
P.O. BOX 849
PORTLAND, OREGON 97207-0849
(503) 248-3138
FAX 248-3377

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN, CHAIR
DAN SALTZMAN
GARY HANSEN
TANYA COLLIER
SHARRON KELLEY

August 6, 1996

Deb Bogstad
Office of Clerk of the Board

Re: Corrected page of Order in Dianna Roberts Appeal

Dear Ms. Bogstad:

Enclosed please find a corrected form of order in the above-captioned matter. The original form was improperly captioned "In the Matter of the Suspension and Revocation of the Adult Care Home License of Dianna Roberts." As the corrected form indicates, the caption should have referred only to the revocation of the license.

Please see that all recipients of the original form receive this replacement page.

Thanks for your assistance.

Very truly yours,

LAURENCE KRESSEL, COUNTY COUNSEL
FOR MULTNOMAH COUNTY

By Katie Gaetjens
Katie Gaetjens
Assistant County Counsel

Encl.

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COUNTY COUNSEL
LAURENCE KRESSEL
CHIEF ASSISTANT
SANDRA N. DUFFY
ASSISTANTS
J. MICHAEL DOYLE
KATIE GAETJENS
GERALD H. ITKIN
STEVEN J. NEMIROW
HELLE RODE
MATTHEW O. RYAN
JOHN S. THOMAS
JACQUELINE A. WEBER

BOARD OF
COUNTY COMMISSIONERS
96 AUG - 6 AM 11:57
MULTNOMAH COUNTY
OREGON

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

In the Matter of the Suspension)
and Revocation of the Adult Care)
Home License of Dianna Roberts)

ORDER NO.
96-_____

The Board of County Commissioners has reviewed the record, Hearing Officer's Order, and the Adult Care Home Program's Response regarding the appeal of Dianna Roberts from an Order of the Hearing Officer that the Multnomah County Adult Care Program properly revoked appellant's license to operate an adult care home at 19390 NE Multnomah Ct., Portland, Oregon. The Hearing Officer found that Ms. Roberts: neglected a seriously injured resident by failing to "make a reasonable effort to discover what care is necessary" and by "withholding or failing to seek appropriate medical attention and care, or failure to direct staff . . . to seek . . . care" in violation of MCAR 890-015-660; either failed to create or maintain accurate resident records or failed to make them available to County investigators, in violation of MCAR 890-020-450; neglected another resident by failing to provide adequate supervision or assistance, in violation of MCAR 890-015-660, and failing to seek medical treatment or advice when this resident was injured as a result of the failure to provide necessary assistance; failed to keep or make records available on this second injured resident; failed to monitor medications adequately by not storing them in a locked central location and not keeping accurate records of controlled substances, in violation of MCAR 890-020-510(c) and (d); neglected a third resident by failing to provide assistance, failing to respond to requests for assistance, and failing to provide an adequate means of summoning assistance; failed to obtain a criminal record authorization "prior to or at the time of employment of a care provider", in violation of MCAR 890-020-260(a); failed to cooperate in complaint investigations by denying access to records, in violation of MCAR 890-020-260(a), and lacked the good judgment and personal character required in an adult care home operator, as demonstrated by a series of incidents involving

SECOND REQUEST - 8/7/96 - NO RESPONSE FROM 7/22/96 LETTER

July 22, 1996

CERTIFIED MAIL - RRR
P 354 579 020 (8/7/96)

Deborah L. Bogstad
Office of the Board Clerk
Multnomah County Commissioners
Suite 1510
Portland, OR 97204

CERTIFIED MAIL RRR
P 354 579 019

**RE: Appeal from Hearings Officer Decision on Adult Care Home License
of Dianna Roberts - Amendment to Original request in letter dated July 2, 1996**

Dear Ms. Bogstad:

By avenue of this letter I am requesting that my original request for a new hearing be changed to request that the Hearings Officer's Decision be **overturned or remand** Multnomah County's Decision revoking my license of operate. The reasons for this amendment are the same as in the previous request for a new hearing.

Second, as per attached letters, you will note that Mr. Robert Blackmore is on sabbatical and unable to represent me at the hearing as scheduled on August 15, 1996. Therefore, I, respectfully, request a 60 day continuance to engage a new attorney.

Very truly yours,

ROSEWOOD CARE, INC. (Est'd 1985)



Dianna J. Roberts
Owner/Operator

96 AUG 15 AM 9:43
BOARD OF
COUNTY COMMISSIONERS
MULTNOMAH COUNTY
OREGON

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

In the Matter of the Revocation)
of the Adult Care Home License)
of Dianna Roberts)

ORDER NO.
96- 137

The Board of County Commissioners has reviewed the record, Hearing Officer's Order, and the Adult Care Home Program's Response regarding the appeal of Dianna Roberts from an Order of the Hearing Officer that the Multnomah County Adult Care Program properly revoked appellant's license to operate an adult care home at 19390 NE Multnomah Ct., Portland, Oregon. The Hearing Officer found that Ms. Roberts: neglected a seriously injured resident by failing to "make a reasonable effort to discover what care is necessary" and by "withholding or failing to seek appropriate medical attention and care, or failure to direct staff . . . to seek . . . care" in violation of MCAR 890-015-660; either failed to create or maintain accurate resident records or failed to make them available to County investigators, in violation of MCAR 890-020-450; neglected another resident by failing to provide adequate supervision or assistance, in violation of MCAR 890-015-660, and failing to seek medical treatment or advice when this resident was injured as a result of the failure to provide necessary assistance; failed to keep or make records available on this second injured resident; failed to monitor medications adequately by not storing them in a locked central location and not keeping accurate records of controlled substances, in violation of MCAR 890-020-510(c) and (d); neglected a third resident by failing to provide assistance, failing to respond to requests for assistance, and failing to provide an adequate means of summoning assistance; failed to obtain a criminal record authorization "prior to or at the time of employment of a care provider", in violation of MCAR 890-020-260(a); failed to cooperate in complaint investigations by denying access to records, in violation of MCAR 890-020-260(a), and lacked the good judgment and personal character required in an adult care home operator, as demonstrated by a series of incidents involving

misrepresentations and poor judgment on her part. MCAR 890-020-200(b) and (c). The hearings officer held that the Department of Aging Services Adult Care Home Program properly revoked Ms. Roberts' license based on her multiple, repeated rule violations which often put at risk "the health, safety or welfare of her residents."

The Board accepts the Hearing Officer's Order, attached hereto as Exhibit A. The Board has also reviewed the appellant's request for a hearing, attached as Exhibit B and the Adult Care Program's Response to the Appeal, attached as Exhibit C. Based on this review, the Board finds that the Hearing officer's Order is fully supported by the record and that there are no grounds for rejecting or modifying the Hearing Officer's Order.

IT IS HEREBY ORDERED that the Order of the Hearing Officer in the Appeal of Dianna Roberts is accepted.

Review of this final Order may be taken solely and exclusively by Writ of Review in the manner set forth in ORS 34.020 to ORS 34.100.



Approved this 15th day of August, 1996.

MULTNOMAH COUNTY, OREGON

By

Beverly Stein
Multnomah County Chair

REVIEWED:

PETER KASTING, SPECIAL COUNSEL
FOR MULTNOMAH COUNTY, OREGON

By

Peter Kasting
Peter Kasting

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TDD (503) 823-6868

HEARINGS OFFICER'S ORDER

APPEAL OF DIANNA J. ROBERTS

HEARING NO. 161035

DATES OF HEARING:
COMMENCED: March 28, 1996
ENDED: May 21, 1996

APPEARANCES:

Ms. Katie Gaetjens, Assistant County Counsel for Multnomah County

Ms. Dianna J. Roberts, appellant

HEARINGS OFFICER: Mr. William W. Shatzer

STATEMENT OF THE CASE.

This proceeding is an appeal from a determination of the Multnomah County Adult Home Care Program revoking the license of the appellant Dianna Roberts to operate an Adult Care Foster Home.

On November 28, 1995, the Sanctions Specialist for the Multnomah County Adult Care Home Program issued a Notification of Administrative Sanctions pursuant to MCAR 890-080-200 et seq in which the Sanctions Specialist determined that the appellant had failed to conform to numerous provisions of the applicable Multnomah County Administrative Rules for Licensure of Adult Care Homes (Multnomah County Administrative Rules, Chapter 890). The Sanctions Specialist further determined that the violations were of such a nature as to warrant the revocation of appellant's Adult Care Home License under MCC 8.90.080(A) and, accordingly, revoked Ms. Roberts Adult Care Home license.

On December 15, 1995, Ms. Roberts filed a request for hearing on the license revocation pursuant to MCC 8.90.090 and MCAR 890-090-100. This proceeding followed.

PRELIMINARY RULING.

On February 12, 1996, the Multnomah County Adult Care Program issued an amendment to the November 28, 1995 Notice of Administrative Sanctions, making several additional determinations of non-compliance with the provisions of the Multnomah County Administrative Rules for Licensure of Adult Care Homes and determining that these constituted additional grounds for the revocation of Ms. Roberts' Adult Care Home license (Exhibit 9). At hearing, the County sought to introduce this amendment and offer evidence in support of the determinations contained therein. Upon the appellant's objection, the hearings officer allowed the County to offer evidence in support of the determinations contained in that amendment and reserved ruling on the appropriateness of the amendment and the admissibility of the evidence offered in support thereof.

The hearings officer subsequently determined that the purported amendment was inappropriate and improper for the reasons set for in the hearings officer's letter determination of April 16, 1996.

Accordingly, none of the allegations contained in the February 12, 1996 amendment are properly a part of this proceeding and the evidence offered by the County in support thereof has not been considered by the hearings officer in this decision.

FINDINGS OF FACT AND CONCLUSIONS OF LAW.

As a preliminary matter, I must comment that this has been, without a doubt, the most difficult administrative hearing with which I have ever been involved in my more than eleven years serving as a hearings officer. Principally this was due to Ms. Roberts' constant dilatory and delaying tactics; her filing of numerous and voluminous motions, few, if any of which had any factual or legal basis; and her continued refusal to conform to established and orderly procedures.

However, the situation was exacerbated by the County's failure to implement and use regular and clear procedures in dealing with this case and the somewhat ad hoc nature of the procedures apparently used. In addition, in issuing its 14-page November 28, 1995 Notice of Administrative Sanctions, the County adopted a "scatter-gun" approach, by including every violation, purported violation, alleged violation or possible violation of the Multnomah County Administrative Rules which conceivably be laid against Ms. Roberts over the recent and not so recent past. Some of these alleged violations were of a trivial nature or not violations of the administrative rules; others were phrased in only the vaguest and indefinite terms; and, on others, the County never offered evidence at hearing. This unduly expanded the scope of this hearing and injected many issues which ultimately proved irrelevant.

In these findings of fact, I have considered and discussed only those allegations of violation which are of a substantial nature and on which the County offered substantial evidence in support thereof.

1. During the late evening of April 12, 1995 or the early morning hours of April 13, 1996, O, an elderly resident of the appellant's Adult Care Home, fell while using a commode. The appellant, Ms. Roberts, was on duty as the resident care giver at the time of the fall. Following the fall, Ms. Roberts apparently did nothing except to return O to her bed. When the day caregiver arrived for duty sometime before 9:00 am on the morning of April 13, the Ms. Roberts told her about the fall but provided the day caregiver with no special instructions as to monitoring or seeking medical treatment for O before Ms. Roberts left the Adult Care Home for the day.

O remained in bed in a comatose or semi-comatose condition throughout the day of April 13. No medical treatment or medical advice was sought by either the appellant or the day caregiver until sometime around 4:00 pm that afternoon when Ms. Roberts returned to the adult care home. At that time, the day care-giver related to Ms. Roberts O's lack of responsiveness and comatose or semi-comatose condition. Ms. Roberts' thereupon summoned emergency medical personnel. O was transported to the hospital where it was ultimately determined that O had suffered a fractured hip and a stroke although it is unclear whether the stroke was the result of, or the cause of, the fall. O never recovered sufficiently to return to the adult care home and died approximately two months after this incident.

There is some dispute as to the specific authority Ms. Roberts had delegated to the day caregiver to seek or obtain medical assistance, treatment, or advice for the residents of the adult care home including O. The day caregiver testified that she had been specifically instructed that she was not authorized to seek medical assistance or treatment for the residents except on Ms. Roberts' specific instructions. Ms. Roberts testified the day care-giver's testimony was incorrect and that the day care-giver did, in fact, have authority to call 911 or otherwise seek medical treatment if appropriate. I believe the day caregiver's testimony to be the more accurate and most satisfactorily explains the actual course of events. In any case however, Ms. Roberts' actions in this situation bespeaks a serious and substantial neglect of her duty to provide prompt and effective medical treatment for this resident.

There is no evidence that Ms. Roberts made any attempt to monitor O's vital signs at any time between the fall and the time emergency medical personnel were summoned at four o'clock on the afternoon of April 13. There is no evidence that she sought any medical advice from a physician, nurse, or other medical personnel as to whether further examination or treatment of O might be appropriate following her fall. While Ms. Roberts did inform the day caregiver of the fall, she apparently provided no instructions or guidance to the day caregiver about monitoring O's condition or whether or under what circumstances

medical treatment or advice should be sought for O during Ms. Roberts' absence. In short, Ms. Roberts undertook no measures to either seek medical treatment or to assure that medical treatment was not required. Despite the fact that O had suffered serious injury in the fall and had a potentially life threatening medical condition, O was left untreated and unexamined by medical personnel for a period well in excess of 12 hours.

Under MCAR 890-015-660, "neglect" is defined as, "failure to make a reasonable effort to discover what care is necessary to the well-being of a resident," and "withholding or failing to seek appropriate medical attention and care, or failure to direct staff ... to seek appropriate medical attention and care." Ms. Roberts' actions and lack of actions in this instance clearly fall within this definition.

When attempting to investigate this incident, Multnomah County Adult Care Home investigators requested inspection of Ms. Roberts' records on O including the appropriate progress notes and incident reports on O. MCAR 890-020-450 requires adult care home operators to keep, maintain, and make accessible to County personnel accurate resident records, including appropriate incident reports on all "falls, injuries, absences, medical emergencies or similar occurrences." Not only was Ms. Roberts unable to produce progress notes and incident reports on O documenting the circumstances surrounding her fall and subsequent events but Ms. Roberts was unable to produce any records on O at all. Ms. Roberts failure to create and/or maintain such records and or make such records available to County investigators was a violation of MCAR 890-020-450.

2. During the evening of June 7, 1995, V, another resident of Ms. Roberts' adult care home fell suffering injuries requiring hospitalization when she was left unattended on a commode. V had previously been hospitalized on several occasions within the previous month and was known to Ms. Roberts to have been in a weakened condition. Despite Ms. Roberts' knowledge of V's condition, she failed to provide supervision or assistance while V was using the commode.

Ms. Roberts' failure to provide adequate assistance and supervision for this resident constituted neglect under the provisions of MCAR 890-015-660.

After returning from the hospital on June 12, 1995, V suffered yet a second fall under similar circumstances which, while not requiring hospitalization, caused severe bruising over a considerable portion of her body. While Ms. Roberts was apparently providing supervision and assistance of V when this second fall occurred, such assistance was inadequate to prevent the fall. Moreover, despite the extensive bruising which V suffered as a result of this fall, Ms. Roberts' failed to seek medical treatment for V or to consult with medical personnel as to whether treatment was required. Ms. Roberts' failure to take adequate measures to prevent this second fall and to seek medical treatment or advice regarding V's injuries from this fall constitutes neglect within the provisions of MCAR 890-015-660.

In investigating these incidents, Multnomah County investigators requested to inspect the progress notes and incident reports on V for these periods. Ms. Roberts' was unable to produce any medical records, progress notes or incident reports on V for the months of either June or July, 1995. Failure to maintain these records and make them available to Multnomah County investigators is a violation of MCAR 890-020-450.

Upon V's discharge from the hospital on June 12, V was issued a prescription for 20 tablets of Tylenol III, a controlled drug. During the course of their investigation, Multnomah County investigators requested to examine the records of Ms. Roberts' administration of this medication and the unused portions of this prescription. Ms. Roberts' could produce neither the records nor the unused portions of the prescription, stating to County investigators that she had "dumped the unused portions of the prescription down the toilet." However, at hearing, Ms. Roberts produced a Disposal of Controlled Drugs form (Exhibit 206) demonstrating that these tablets had been disposed of at IPAC Pharmacy Services on March 26, 1996, clearly establishing that these tablets were within Ms. Roberts custody and control at the time the investigators requested to inspect them. MCAR 890-020-510(d) requires that all controlled substances be fully accounted for and MCAR 890-20-510(c) requires that all medications be kept in a locked, central location. Ms. Roberts' inability to produce these tablets which were clearly within her custody and control demonstrates that she could not, at that time, fully account for this medication nor was she maintaining it in a locked central location in violation of both MCAR 890-020-510(c) and (d).

3. On the evening of July 20, 1995, F, another elderly resident, fell while on her way to the bathroom and suffered injuries severe enough to require that 911 be summoned. F had called for assistance to aid her but no one responded to her calls. When no assistance was forthcoming after repeated calls for assistance attempted to walk to the bathroom unassisted when she lost her balance and fell. F had a previous history of falling and is only semi-ambulatory, of which Ms. Roberts was aware. Despite this, Ms. Roberts failed to provide supervision and assistance to F at night or to provide F with an adequate means of requesting such assistance at night.¹

Ms. Roberts' failure to provide F with assistance, to respond to her requests for assistance and to provide an adequate means of summoning assistance constitutes neglect within the provisions of MCAR 890-015-660.

4. MCAR 890-020-450 requires all adult care home operators to keep and maintain all required residents' personal and medical records for a period of three years and to make such records available to the County during the course of its inspections, interviews and investigations. On September 5, 1996, County investigators requested certain residents' records for the previous three-year period be made available to the investigators for inspection. Ms. Roberts failed to produce such records and failed to respond to repeated requests by County investigators to schedule an appointment to examine such records. After repeated requests to schedule such an appointment, Ms. Roberts finally agreed to make the requested records available for inspection on October 17, 1995. However, when County investigators arrived at Ms. Roberts' adult care home on October 17, to inspect the records, they were informed that the records were unavailable because they had been inadvertently destroyed by Ms. Roberts' housekeeper the previous day.

Quite frankly, Ms. Roberts' explanation for the non-production of the requested records is implausible. Its implausibility is reinforced by Ms. Roberts' initial refusal to produce the records and her consistent delaying tactics and non-cooperation in producing these records in response to the initial September 5, request.

MCAR 890-020-450 requires adult care home operators to keep and maintain residents' records and to make them available for inspection by the County. Ms. Roberts' failure to do so, for whatever reason, is clearly in violation of those provisions of the County Administrative Rules.

5. MCAR 890-020-230(e) requires that adult care home operators provide the County with a criminal record release authorization form "prior to or at the time of employment" for all newly hired resident managers and caregivers. On or about July 20, 1995, Ms. Roberts employed a Velma Elizabeth Spruell as a caregiver at her adult care home but failed to provide the County with the required criminal record release form until August 11, 1995. Ms. Roberts failure to provide this release form "prior to or at the time of employment" was in violation of MCAR 890-020-230(e).

6. MCAR 890-020-260(a) requires, "Operators...shall cooperate with Department personnel or designees in inspections, interviews, complaint investigation procedures,... and shall allow full access of Department personnel or designees to the Adult Care Home facility, to its caregivers, residents, and other occupants and to its records concerning residents or pertaining to the operation of the Adult Care Home." The evidence establishes that Ms. Roberts has failed to demonstrate the degree of cooperation required under MCAR 890-020-260(a).

The County initially requested of Ms. Roberts access to Ms. Roberts' residents' records on September 5, 1995. These records are required to be maintained and stored on the adult care home premises pursuant to ¹ MCAR 890-020-450(b). Ms. Roberts refused to make those records available for inspection at that time and at a subsequent visit. In a further attempt to obtain access to the records, the County investigators left several phone messages with Ms. Roberts' answering machine, requesting she schedule an appointment

¹ Ms. Roberts had provided small bells in the residents' rooms as a night call system. However, the evidence demonstrates that these bells were insufficiently loud to be heard in Ms. Roberts' living quarters if the bells sounded at night in the residents' rooms, especially if the doors were closed, and the bells were inadequate as a night call system.

for the inspection of those records. Those phone messages were not returned. In one instance where County investigative personnel were successful in reaching Ms. Roberts personally by phone, she refused to schedule an appointment for the inspection of the records. While Ms. Roberts did, eventually, agree to an appointment for inspection of the records on October 17, 1995, some six weeks after the inspection of the records was initially requested, inspection never occurred because, as related above, Ms. Roberts claimed the records had been destroyed the preceding day.

There is little question that under the provisions of MCAR 890-020-260(a), County investigative personnel had an absolute right to examine and inspect the requested records. Ms. Roberts' action display a repeated obstruction and non-cooperation with the County's attempts to obtain access to these records -- which were never, ultimately, made available to the County. Ms. Roberts' actions were a clear violation of her duty to cooperate and all full access under MCAR 890-020-260(a).

7. Finally, there are the myriad of incidents involving Ms. Roberts which, while not involving violations of specific violations of the Multnomah County Administrative rules, do evince a lack of good judgment and sound character on her part.

Ms. Roberts, against the wishes and without the consent of F and F's family, cancelled a doctor's appointment F had previously made and rescheduled the doctor's appointment with a physician of Ms. Roberts' choosing.

Ms. Roberts made numerous repeated and unsubstantiated complaints against her visiting contract nurse, including not only complaints to the nurse's supervisor but also to the State Nursing Board.

Ms. Roberts represented herself in brochures and advertising as being a Certified Nursing Assistant when, in fact, her CNA registration had lapsed in 1992.

When F and Ms Roberts got into an argument, Ms. Roberts summoned 911 emergency medical services to her adult care home in an attempt to cause F to be removed from her home to the hospital when, in fact, there was no medical emergency. This was an inappropriate means of dealing with the situation.

Ms. Roberts made numerous attempts to intimidate caregivers, the visiting contract nurse, a State ombudsman and others into signing statements favorable to or exculpatory of Ms. Roberts.

Ms. Roberts misrepresented the statements and position of the State Ombudsman to County administrative personnel.

While none of these directly violate any specific Multnomah County Administrative Rule and, taken in isolation, might not be particularly significant, when taken together and in conjunction with the specific MCAR violations outlined above, they do evince a pattern which bespeaks a lack of good judgment and sound character. MCAR 890-020-200(b) and (c) requires that operators of adult care homes possess good judgment and good personal character. In the County's determination, the Sanctions Specialist specifically found that Ms Roberts, in fact, lacked the good judgment and sound personal character required under MCAR 890-020-200 of operators of adult care facilities. Based upon the record in this proceeding, I find no error in that determination.

Under the provisions of Multnomah County Code 8.90.080 (A), the license of an adult care home operator may be revoked when the owner or operator has failed to comply with the applicable Multnomah County Administrative Rules for the Licensure of Adult Care Homes. As the evidence in this proceeding clearly establishes that not only did Ms. Roberts violate such rules but that she did so on multiple and repeated occasions, often putting at risk the health, safety or welfare of her residents.

The determination in the Notice of Administrative Sanctions dated November 28, 1995 should be sustained.

ORDER AND DETERMINATION:

The determination in the Notice of Administrative Sanctions dated November 28, 1995 revoking the Adult Care Home License of the appellant, Dianna Roberts, is hereby SUSTAINED.

This order and determination has been mailed to the parties on June 14, 1996 and shall become final on July 5, 1996 unless written exceptions are filed with the Board of County Commissioners prior to such date.

Dated:

June 14, 1996

William W. Jeff
Code Hearings Officer

WWS:sj

July 2, 1996

Deborah L. Bogstad
Office of the Board Clerk
Multnomah County Commissioners
Suite 1510
1120 S.W. 5th Ave.
Portland, OR 97204

CERTIFIED MAIL
RRR - P 354 579 023

**RE: DIANNA J. ROBERTS ACH LICENSE REVOCATION APPEAL # 161035
REQUEST FOR REVIEW OF HEARINGS OFFICER'S DECISION**

By way of this letter I am requesting a review of Mr. William W. Shatzer's Order and Determination dated June 14, 1996 regarding the revocation of my Adult Care Home License.

I am requesting a NEW Hearing before an unbiased Code Hearings Officer:

- 1) Due to the extreme prejudice evidenced by Mr. Shatzer's tone, mannerisms, and body language.
- 2) Failure to schedule a prehearing conference to inform defendant of Code Office Appeal Hearings procedures, i.e., disclosure procedures, witness list requirements, subpoena procedures.
- 3) Rulings on motions, failure to rule on motions.
- 4) **Failure to remand to ASD once clear and unequivocal evidence was presented that ASD had not complied with its their own governing statutes, i.e., regarding conferences requested within the time frame outlined in the MCAR's.**
- 5) Failure to respect defendant's physician's orders.
- 6) Failure to respond to defendant's request that hearing be adjourned until the following day due to defendant's frail physical conditions, while under doctor's written orders not to even be participating in a 'formal hearing', (and, subsequent order to continue with hearing).
- 7) Plus, numerous other procedural errors.

Constitutional Violations:

- 1) 1st Amendment Right to allow video taping of my hearing by a member of the press.
Reference: Public Meetings Law - ORS 192.610 through ORS 192.690.
- 2) 6th Amendment Right to Assistance of Counsel, i.e., Terry Lee and a later request to retain an attorney.

- to the introduction of evidence and, if so, what kind of objections may be made, and an explanation of the burdens of proof or burdens of going forward with the evidence; and
- 2) Whether the party may request a recess in the proceedings if the party determines that representation by an attorney is necessary to the protection of the party's rights.
(A recess was, in fact, requested, and denied.)

Violation of ORS 183.413 (1): Failure to "fully inform" parties of "their rights and remedies with respect to actions taken by state agencies."

This failure affected defendant's right to call witnesses from her 'real' witness list -- not the one prepared in two (2) minutes in the hearings room (had defendant been informed this list was not amendable; but, in fact, sealed in concrete, defendant would have asked for time to prepare one); reference: Katie Gaetjens motion to strike defendant's witness list -- why would Katie want to suppress defendant's witnesses -- why would Katie not want Mr. Shatzer to hear these witnesses -- why would she not call key witnesses on ASD's original witness list, i.e., Jean DeMaster, Heather Stewart, Mary M. Fassell?

The only viable reason Katie Gaetjens would need to suppress witnesses, would be to cover up the violations of the Aging Services Division, i.e., photocopies of confidential medical records copied by Mary M. Fassell without written permission as required by Oregon State Law were presented into evidence by ASD and allowed by Mr. Shatzer. (Apparently, the primary reason Katie Gaetjens was required to sit through this hearing and be 'on the record' as representing the ACHP; although Mary M. Fassell still remained the prosecuting attorney, in actuality, as Katie acted only as a bystander and coach to Mary.)

A hearing is for parties to be heard -- and what Mr. Shatzer is under contract to do, a contract, in fact, which Katie signed also! A recess was requested by the defendant to obtain representation by an attorney and denied by Mr. Shatzer! (Further indication of the extreme prejudice demonstrated throughout the appeal hearing by Mr. Shatzer!)

Other issues of argument:

- a) Witnesses were allowed in the hearing room against the objection of the defendant. This allowed for the witnesses to hone their testimony according to previous testimonies.

Deborah Bogstad, Board Clerk

July 2, 1996

Page 2 of 5

- 3) 14th Amendment Right to equal protection of the laws. (Only allowed 1 week to prepare Closing Argument -- ref: letter dated May 27, 1996.)

Violation of ORS 183.413 (2): Failure of ASD to notify defendant of statutory notice of rights in this contested case, either orally or in writing of the following:

- 1) Whether a record will be made of the proceedings;
- 2) The manner of making the record;
- 3) Whether the record will be available to the parties;
- 4) The function of the record-making with respect to the perpetuation of the testimony and evidence;
- 5) The function of the record-making with respect to any appeal from the determination or order of the agency;
- 6) Whether an attorney will represent the agency in the case;
- 7) Whether parties ordinarily and customarily are represented by attorneys;
- 8) The title and function of the person presiding at the hearing;
- 9) The manner in which the testimony and evidence taken by the person presiding at the hearing are reviewed;
- 10) The effect of any determination by the person presiding at the hearing.
- 11) What person or group makes the final determination on behalf of the agency;
- 12) Whether the person presiding at the hearing is or is not an employee, officer or other representative of the agency;
- 13) Whether the person presiding at the hearing has the authority to make a final independent determination;
- 14) Whether there exists an opportunity for an adjournment to gather and present additional evidence;
- 15) Whether there exists an opportunity after the hearing and before the final determination or order to object to any proposed findings of fact, conclusions of law, summary of evidence, or recommendations of the officer presiding at the hearings; and,
- 16) A description of the appeal process from the determination or order of the agency;

In addition, in that defendant was not represented by an attorney, defendant was required to be informed, either orally or in writing of the following; however, was not:

- 1) Of a general description of the hearing procedure including: the order of presentation of evidence; what kinds of evidence are admissible; whether objections may be made

Deborah Bogstad, Court Clerk

July 2, 1996

Page 4 of 5

- b) Mr. Shatzer limited the testimony of the defendant to **ONLY 8 HOURS!**
- c) Mr. Shatzer refused to accept documents presented for evidence by the defendant, even when requested that they be accepted just 'for the record'.
- d) Official Code Hearing Office record of this appeal hearing is incomplete.
The first 15 minutes of the hearings appears to have been taped over, intentionally, to cover up the discussion over allowing the hearing to be videotaped by the press.
- e) **Evidence of Mary M. Fassell cutting, splicing, and editing out sections of a taped conference in the ACHP's office, was not allowed to be introduced on the record, or otherwise. (Affidavits of attendees, or of the tapes themselves -- further suppressed evidence of violations by the Aging Services Division.)**
- f) Motion presented on May 27, 1996 was not ruled on or responded to. This motion was presented prior to the Closing Arguments being presented on May 28, 1996. This motion was lengthy (approx. 8-10 pages -- copy attached). Due to the seriousness of the motion, i.e., that Mr. Shatzer disqualify himself for reasons noted above as well as conspiracy allegations (a federal offense), this motion needs to be addressed -- not washed under the carpet.

Further reason for review, Katie Gaetjen's, Closing Arguments were laced with misrepresentations and innuendoes not substantiated by actual testimony presented during the hearing.

In that the burden of proof lies with the Aging Services Division, based upon the actual evidence presented, the evidence is insufficient to merit revocation of Dianna Roberts adult care home license.

In closing, Dianna Roberts' position is that irreparable injury/financial has occurred by sanctions placed on her home by the ACHP. To avert further injury, and to enable her to continue operation of her Adult Care Home, which is, currently, still providing care to her long term elderly residents whose life, health, safety and welfare would be jeopardized, IF they were forced to relocate, AND whose families have contested previous attempts by the ACHP to force relocation in writing by way of exercising their Residents' Rights of Appeal (Note: MCAR 890-090-200, specifically, 890-090-280), defendant request an exception or stay of previous sanctions placed on her home by the ACHP with regard to acceptance of new residents, until review by the Multnomah County Commissioners, review of Mr. William W. Shatzer's conduct before the Oregon Government Ethics Commission, AND all further appeal rights have been exhausted by the defendant.

Deborah Bogstad, Board Clerk

July 2, 1996

Page 5 of 5

Respectfully,

ROSEWOOD CARE, INC. (Est'd. 1985)



Dianna J. Roberts

Owner/Opertor

Attachment (1) Motion dated May 27, 1996

cc: William W. Shatzer

Katie Gaetjens

Jim McConnell

Carol Rex

Multnomah County Commissioners

Pete Kasting

Lawrence Kressel

Jean DeMaster

Robert F. Blackmore, Dunn Carney Allen Higgins & Tongue

— Stein

CERTIFICATE OF SERVICE

I, hereby, certify that on the 2nd day of July, 1996, I have made service of the foregoing letter on Deborah Bogstad, Board Clerk of the Multnomah County Commissioners, by CERTIFIED MAIL to her regular office address to-wit:

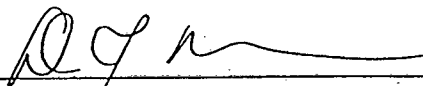
Deborah Bogstad, Board Clerk
Multnomah County Commissioners
1120 S.W. 5th Ave.
Rm. 1510
Portland, OR 97204

cc: Wm. W. Shatzer
Code Hearings Officer
1120 S.W. 5th, Rm. 1017
Portland, OR 97204

FAX: 823-4347

Catherine Gaetjens, Sr. Asst. County Counsel
Multnomah County Oregon
1120 S.W. 5th Ave., Suite 1530
Portland, OR 97204

FAX 248-3377



Dianna J. Roberts, Defendant
19390 N.E. Multnomah Ct.
Portland, OR 97230

1 BEFORE THE BOARD OF COUNTY COMMISSIONERS

2 MULTNOMAH COUNTY

3
4 In the Matter of the Revocation
5 of the Adult Care Home
6 License of Dianna Roberts

City Hearing Office
Case NO. 161035

7 Adult Care Home Program's
8 Rebuttal to Operator's Exceptions

9 BACKGROUND

10 On November 28, 1996, the Multnomah County Department of
11 Aging Services, Adult Care Home Program, ("ACHP") notified Ms.
12 Roberts of its intent to revoke her license to operate an adult
13 care home and of her right to request a hearing. Ms. Roberts
14 requested a hearing, which was conducted on March 28 and 29,
15 April 5, 19 and 25, and May 9, 17 and 21. On June 14, 1996 the
16 hearing officer issued his order affirming the revocation.
17 (Exhibit "A"). On July 8, 1996, the Board of County
18 Commissioners ("Board") received Ms. Roberts exceptions to the
19 order. (Exhibit "B"). This hearing is the Board's opportunity
20 to respond to Ms. Roberts' exceptions.

21 ARGUMENT

22 The Board should accept the hearing officer's detailed and
23 thorough order upholding the ACHP's revocation. This order was
24 entered after over 30 hours of hearing, in which Ms. Roberts had
25 the opportunity to present her case fully. The hearing officer
26 was able to evaluate the witnesses, and the voluminous

1 documentary evidence in this case. He concluded that Ms. Roberts
2 was responsible for significant instances of resident neglect,
3 failure to keep client records, including adequate medication
4 records, refusal to cooperate with county monitoring of the adult
5 care home, failure to obtain necessary criminal record checks,
6 and a "myriad of incidents" that "evinced a lack of good judgment
7 and sound character on [Ms. Roberts'] part." The Board has no
8 reason to re-open this matter and should accept the hearing
9 officer's order on the record.

10 CHRONOLOGY

11 For purposes of clarity, the ACHP offers the following
12 chronology of the events relevant to this appeal:

13 1. August 18, 1995. Notice of suspension of admissions
14 issued to Ms. Roberts based on "the substantial number of
15 complaints/and or protective service reports" filed against the
16 adult care home. There were five complaints, each from a
17 different source. These complaints alleged serious instances of
18 neglect and abuse of residents' rights. At this time, the ACHP
19 had not been able to complete its investigation of all of the
20 reports, but had learned enough to conclude that new admissions
21 were not appropriate.

22 2. September 15, October 18 and November 11, 1995. The
23 suspension of admissions was extended for three additional 30 day
24 periods. The investigation could not be completed more quickly,
25 in large part because Ms. Roberts was not permitting access to
26 her home and to necessary records. (See Hearing Officer's Order

1 at 4-5.) In addition, a sixth complaint developed during the
2 investigation.

3 3. November 28, 1996. The ACHP issued a notice of
4 revocation of the license, with copies of the completed
5 investigation reports attached.

6 4. Conferences on the suspension of Admissions. During
7 this three-month period, Ms. Roberts was represented by three
8 different attorneys, at least one of whom she retained without
9 notifying the previous attorney of his dismissal. Through the
10 last two of these attorneys, Ms. Roberts requested administrative
11 conferences regarding the license suspensions. In agreement with
12 these two attorneys, the ACHP postponed administrative
13 conferences regarding the suspensions of admissions until
14 investigation of the complaints was complete and administrative
15 action taken on the findings. (See letter from K. Gaetjens to
16 Mark Cottle, Exhibit "C".) and affidavit of K. Gaetjens regarding
17 additional contacts with Mark Cottle and James Niedermeyer
18 (Exhibit "D".) Ms. Roberts now asserts she was denied requested
19 administrative conferences. This assertion is inaccurate, and
20 appears to stem from ineffective communication with her own
21 counsel during this time.

22 5. Request for Hearing on the Revocation. Following the
23 November 28, 1995 letter of notice of intent to revoke, Ms.
24 Roberts requested a hearing. (See D. Roberts December 15, 1995
25 letter, Exhibit "E".) The ACHP responded in a January 5, 1996
26 letter, offering Ms. Roberts an administrative conference and

1 attempting to determine if Ms. Roberts wanted to consolidate the
2 suspension and the revocation proceedings. The letter was sent
3 to her because she was no longer represented by her third
4 attorney. (Exhibit F") She declined this opportunity. (Exhibit
5 "G")

6 6. On January 18, 1996, the hearing officer notified the
7 parties that the revocation hearing would be handled as a
8 separate matter from the earlier suspensions, and that the
9 request for a hearing on the suspensions would be held in
10 abeyance until the conclusion of the revocation proceeding.
11 (Exhibit "H")

12 7. After numerous requests for postponements by Ms.
13 Roberts, one of which was granted, the revocation hearing began
14 on March 28, 1996. The ACHP presented its case in chief on March
15 28 and 29 and April 5. The hearing was reconvened for Ms.
16 Roberts to present her case on April 5, 19 and 26 and on May 9,
17 17 and 21. The numerous set overs and delays were in response to
18 motions and objections filed by Ms. Roberts. Despite numerous
19 opportunities to do so, Ms. Roberts failed to present any
20 witnesses in her behalf. Written closing arguments were
21 submitted May 28, 1996, and the final order affirming revocation
22 was issued June 14, 1996.

23 EXCEPTIONS

24 Ms. Roberts raises numerous "exceptions" to the revocation
25 of her license. Significantly, none of these exceptions dispute
26 the facts on which the revocation is based, but instead allege

1 she received an unfair hearing. In fact, Ms. Roberts received
2 extraordinary consideration in the hearing process despite
3 repeated delaying and harrassing tactics on her part. Her
4 allegations are considered in order:

5 1. Bias. The ACHP contracts with a hearing officer from the
6 City of Portland precisely to avoid even the appearance of bias
7 in the hearing decision maker. The hearing officer had no advance
8 knowledge of Ms. Roberts case other than the documents the ACHP
9 and Ms. Roberts submitted, and no ex parte contact regarding Ms.
10 Roberts with the ACHP during the course of the hearing. The
11 Attorney General has defined "bias" as "prejudice or prejudgment
12 of the facts to such an extent that an official is incapable of
13 rendering a fair judgment." 41 Op Atty Gen 490, 492-93 (1981).
14 The fact that the hearing officer did not decide in Ms. Roberts
15 favor does not mean he was "incapable of rendering a fair
16 decision."

17 2. Constitutional Violations. Ms. Roberts' constitutional
18 claims are ill-founded because the rights she asserts apply, if
19 at all, to criminal proceedings. For example, only in certain
20 criminal trials is there a right to appointed counsel. Moreover,
21 Ms. Roberts was never prohibited from appearing by counsel. She
22 was simply not permitted to set the hearing over further to
23 retain a fourth attorney. Similarly, there is no inherent right
24 to a video-recording of an administrative hearing. In fact,
25 administrative hearings are specifically exempted from the Public
26 Meetings Law, which Ms. Roberts cites. ORS ORS 192.690(1) and

1 (2). An audio recording was made, which is available to Ms.
2 Roberts on request.

3 3. Notice Procedures. Ms. Roberts objects that she did not
4 receive notice of her rights or of hearing procedures, as set
5 forth in ORS 183.413(1) and (2). The short answer is that the
6 statutes she cites are part of the Oregon Administrative
7 Procedures Act, which applies to state agencies. The real
8 question is not whether these provisions were followed, but
9 whether Ms. Roberts had an opportunity for a full and fair
10 hearing. Ms. Roberts was notified of her right to a hearing, and
11 how to obtain it. She was notified of the charges against her,
12 so that she could prepare any evidence she had to rebut those
13 facts. See November 28, 1995 revocation letter, in record. The
14 procedure in a hearing and the types of evidence permitted are
15 covered in the ACHP rules, with which the operator is required to
16 be familiar. See MCAR 890-030-300. In addition, the hearing
17 officer, during the hearing, explained his expectations regarding
18 presentation of her case to Ms. Roberts..

19 The hearing officer also considered Ms. Roberts' notice
20 objections during the hearing itself. For example, the ACHP
21 notified Ms. Roberts on February 12, 1996, that it had found
22 additional violations of the ACHP rules and was amending the
23 November 28, 1995 notice of revocation to include these
24 violations. It presented evidence regarding these additional
25 violations at hearing, but the hearing officer ultimately
26 concluded that the ACHP had not adequately notified Ms. Roberts.

1 He struck this evidence, and did not consider these
2 violations in supporting the revocation. (See Exhibit "A" at 1.)
3 In summary, the hearing officer considered whether Ms. Roberts
4 received adequate notice, and acted in her favor when he believed
5 the ACHP had made a procedural error by not supplying adequate
6 notice.

7 4. Limiting Witnesses. On the second day of the hearing,
8 at Ms. Roberts request, the ACHP and Ms. Roberts exchanged
9 witness lists. Her list consisted of four names: "Valerie
10 Young, Darrold Steiner, Chery (sic) Banks, Cindy Peetz-Yoakim."
11 The County concluded its case in chief on April 5, 1995. At any
12 of the subsequently scheduled hearing dates, Ms. Roberts could
13 have presented any of these witnesses. She never did.

14 Instead, after appearing on April 19 with no witnesses, and
15 despite having been told by the hearing officer that it was her
16 opportunity to put on her evidence, Ms. Roberts submitted a new
17 57-person witness list after the close of the hearing on April
18 19. The ACHP moved to strike the list as an untimely attempt to
19 delay the proceeding. The hearing officer allowed the motion,
20 but agreed to permit Ms. Roberts to present any of these
21 witnesses if she could demonstrate that she did not know of the
22 witnesses at the time of exchange of original witness lists, and
23 that they would have relevant evidence. See Hearing Officer
24 April 22, 1996 letter. (Exhibit "I"). Ms. Roberts failed to
25 make such a showing for any of the 57 witnesses. In summary, Ms.
26 Roberts had many opportunities to present witnesses. She simply

1 did not do so. Her complaints are disingenuous at best.

2 5. ACHP's Closing Argument. Ms. Roberts asserts that the
3 ACHP's closing argument is "laced with innuendoes." In fact, it
4 is an accurate account of the evidence presented at hearing from
5 the ACHP's perspective. In any event, the hearing officer was
6 present in person for the entire hearing. His summary of the
7 evidence is based on first hand observation, and not dependent on
8 the ACHP's closing. Finally, it is noteworthy that Ms. Roberts
9 does not disprove any of the ACHP's factual evidence, but merely
10 complains about alleged "innuendoes" and an alleged "conspiracy."

11 CONCLUSION

12 Reviewed carefully, Ms. Roberts' exceptions do not dispute
13 the factual findings underlying the ACHP's revocation, but
14 instead allege that she did not have a fair hearing because she
15 did not prevail. Ms. Roberts was provided numerous opportunities
16 to present her side of the story, which is what a hearing is
17 about, and instead used this time to make voluminous complaints
18 about the process and to ignore all of the required procedures.
19 (See Exhibit "A" at 2.)

20 The Board is empowered to make a decision on the record.
21 The hearing officer's order sets out clear and unequivocal
22 conclusions, based on evidence presented at hearing. He finds
23 that Ms. Roberts violated the ACHP rules by neglecting residents
24 in a number of ways, some of them life-threatening. He also
25 concludes that Ms. Roberts was guilty of misrepresenting herself
26 and her services, misrepresenting statements made by others,

1 and filing unsubstantiated complaints with licensing boards when
2 crossed. The Board should adopt the hearing officer's order
3 affirming the ACHP's revocation on the record. Further hearing
4 will not result in any additional accurate information, and any
5 delay will leave the elderly residents still in Ms. Roberts home
6 at continuing, significant risk. Consequently, the ACHP
7 respectfully requests that the Board affirm the hearing officer's
8 June 14, 1996 order on the record. A form of order is attached
9 for this purpose.

10 DATED this 25th day of July, 1996.

11
12 LAURENCE KRESSEL, COUNTY COUNSEL
13 FOR MULTNOMAH COUNTY, OREGON

14 By

15 Katie Gaetjens, OSB #88210
16 Assistant County Counsel
17 Of Attorneys of Department
18 of Aging Services
19
20
21
22
23
24
25

26 H:\Data\Advisory\GaetjensRobertsRebuttal.doc

MEETING DATE: AUG 15 1996
AGENDA NO.: R-3
ESTIMATED START TIME: 9:40am

(Above space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: NOI - CDC COOPERATIVE AGREEMENT PROPOSAL

BOARD BRIEFING Date Requested: _____

Amount of Time Needed: _____

REGULAR MEETING: Date Requested: AUGUST 15, 1996

Amount of Time Needed: 5 to 10 minutes

DEPARTMENT: HEALTH DIVISION: DISEASE PREV. & CONTROL

CONTACT: JOHN DOUGHERTY TELEPHONE #: x2290
BLDG/ROOM #: 160/4

PERSON(S) MAKING PRESENTATION: JOHN DOUGHERTY

ACTION REQUESTED:

[] INFORMATIONAL ONLY [] POLICY DIRECTION [X] APPROVAL [] OTHER

SUGGESTED AGENDA TITLE:

Notice of Intent to respond to a program announcement from the Centers for Disease Control and Prevention to fund a cooperative agreement for the development and evaluation of HIV prevention programs for HIV-positive men.

SIGNATURES REQUIRED:

ELECTED OFFICIAL: _____

Or

DEPARTMENT MANAGER: Lilli Odegaard

(ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES)

Any Questions: Call the Office of the Board Clerk 248-3277/248-5222

BOARD OF
COUNTY COMMISSIONERS
MULTNOMAH COUNTY
OREGON
96 JUL 22 PM 3:33



MULTNOMAH COUNTY OREGON



HEALTH DEPARTMENT
426 S.W. STARK STREET, 8TH FLOOR
PORTLAND, OREGON 97204-2394
(503) 248-3674
FAX (503) 248-3676
TDD (503) 248-3816

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN • CHAIR OF THE BOARD
DAN SALTZMAN • DISTRICT 1 COMMISSIONER
GARY HANSEN • DISTRICT 2 COMMISSIONER
TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

MEMORANDUM

TO : Beverly Stein, Chair *JS*
FROM : Jeanne Gould, Manager Disease Prevention & Control/Planning
DATE : July 19, 1996
RE : Notice of Intent to respond to CDC Program Announcement 630

REQUESTED PLACEMENT DATE: August 15, 1996

I. Recommendation/Action Requested:

The Multnomah County Health Department is requesting approval to respond to Program Announcement No. 630 from the Centers for Disease Control and Prevention (CDC) to fund a cooperative agreement for formative development and evaluation of an HIV prevention program for HIV-positive men. The application is due August 19, 1996.

II. Background/Analysis:

The CDC is requesting proposals to conduct formative behavioral intervention research on the sustained prevention of sexual transmission of HIV by HIV-positive men. The CDC will support the collection of qualitative and quantitative data in the development and evaluation of pilot behavior intervention programs for HIV-seropositive men that are appropriate for implementation in local health departments. Ideally, these intervention activities would motivate and support HIV-positive men in sustaining sexual practices that reduce the risk of HIV transmission. The Health Department already operates, with support from the Oregon Health Division, a Support/Health/Information/& Prevention program (SHIP) that provides prevention services to seropositive clients. The SHIP addresses the risky behaviors and barriers to safer behaviors of seropositive clients in the context of a continuing trusting relationship. In addition, important client issues such as disclosure of status to others, anxiety, depression, anger, substance use, and crisis are addressed in a supportive manner by program staff or by referral to County and other providers. CDC funds would enhance the development of individually tailored prevention interventions targeted to HIV-positive men, and allow an evaluation of the effectiveness of that component of the program.

III. Financial Impact:

The Health Department anticipates requesting approximately \$250,000 per year for two years, with the potential for obtaining an additional three years of funding. CDC funds obtained through this application would be used for development and evaluation of the program, and would supplement existing State support for salaries. The project would begin October 1, 1996. There is no requirement for matching funds.

IV. Legal Issues:

N/A

V. Controversial Issues:

N/A

VI. Link to Current County Policies:

The proposed program is consistent with current policies. The program goals are to motivate and support HIV-positive men in sustaining sexual practices that reduce the risk of HIV transmission, consistent with general policies for reducing the spread of HIV. The proposed program will be an enhancement of the existing County Support/Health/Information/& Prevention program (SHIP) that provides prevention and support services to seropositive clients.

VII. Citizen Participation:

An advisory panel that includes consumers and health care providers will be established to assist in the development of program goals and procedures. Consumer and provider participation is also required by CDC. Citizen testimony at the Board meeting is not anticipated.

VIII. Other Government Participation:

The Oregon Health Division will continue to provide salary support for two program staff. The current SHIP program and the proposed cooperative agreement has been developed in collaboration with the OHD. The proposed program development and evaluation will be accomplished by MCHD and OHD staff through the Program Design and Evaluation Services intergovernmental work group.

#1

PLEASE PRINT LEGIBLY!

MEETING DATE 8-15-96

NAME

Jene Retzer

ADDRESS

5115 SW Atlanta St

STREET

Portland, OR 97219

CITY

ZIP

I WISH TO SPEAK ON AGENDA ITEM NO. R4

SUPPORT ☒

OPPOSE ☐

SUBMIT TO BOARD CLERK

#2

PLEASE PRINT LEGIBLY!

MEETING DATE 8-15-96

NAME

John Allard

ADDRESS

10463 SW 55th Av

STREET

97219

CITY

ZIP

I WISH TO SPEAK ON AGENDA ITEM NO. R-4

SUPPORT ☒

OPPOSE ☐

SUBMIT TO BOARD CLERK

MEETING DATE: ~~AUG 8 1996~~ AUG 15 1996
AGENDA #: R-3 R-4
ESTIMATED START TIME: 9:40 am 9:45

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: Repeal of Resolutions 90-57 and 93-338 and replacement with a new resolution governing the proceeds of the sale of unrestricted County property.

BOARD BRIEFING:

DATE REQUESTED: _____

REQUESTED BY: _____

AMOUNT OF TIME NEEDED: _____

REGULAR MEETING:

DATE REQUESTED: August 8, 1996

AMOUNT OF TIME NEEDED: 20 minutes

DEPARTMENT: Support Services

DIVISION: Budget & Quality/Finance

CONTACT: Barry Crook/Dave Boyer

TELEPHONE #: 248-3575/248-3903

BLDG/ROOM #: 106/1400 & 1430

PERSON(S) MAKING PRESENTATION: Barry Crook & Dave Boyer

ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL ☐ OTHER

SUGGESTED AGENDA TITLE:

Repeal of Resolutions 90-57 and 93-338 and approval of a new resolution which directs the proceeds from the sale of unrestricted County property to be divided equally between a Capital Improvement Fund (current recipient fund) and the newly established Capital Acquisition Fund (to be used as a source of revolving loans to County operations, subject to approval by the Board of County Commissioners).

8/15/96 copies to Beverly Stein, Dan Saltzman, Tanuylia Collier, Gary Hansen, Sharon Kelley, Barry Crook, Dave Boyer, Jean Dzielak & Larry

SIGNATURES REQUIRED: NICHOLAS & DAVE

ELECTED

OFFICIAL: _____

(OR)

DEPARTMENT

MANAGER: _____

BOARD OF
COUNTY COMMISSIONERS
96 JUL 29 AM 10:49
MULTNOMAH COUNTY
OREGON

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Office of the Board Clerk 248-3277 or 248-5222



MULTNOMAH COUNTY, OREGON

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN
DAN SALTZMAN
GARY HANSEN
TANYA COLLIER
SHARRON KELLEY

BUDGET & QUALITY OFFICE
PORTLAND BUILDING
1120 S.W. FIFTH - ROOM 1400
P. O. BOX 14700
PORTLAND, OR 97214
PHONE (503)248-3883

To: Board of County Commissioners

From: Barry Crook, Budget & Quality Manager *bc*
Dave Boyer, Finance Manager *DB*

Today's Date: July 23, 1996

Requested Placement Date: August 8, 1996

Subject: Repeal of Resolutions 90-57 and 93-338

I. Recommendation / Action Requested:

The Board is being asked to repeal two resolutions -- 90-57 and 93-338 -- which currently govern the disposition of the proceeds from the sale of unrestricted County properties by designating 50% for a Capital Improvement Fund and 50% for the Natural Areas Acquisition Fund. The replacement resolution being recommended would change that by designating the proceeds as 50% to the Capital Improvement Fund and 50% to a newly created fund -- the Capital Acquisition Fund.

II. Background / Analysis:

On April 19, 1990, the Board of County Commissioners adopted Resolution 90-57 creating the Capital Improvement Fund and Natural Areas acquisition Fund. These funds were created to restrict the use of proceeds received from the sale of unrestricted County property for future capital requirements and the acquisition, protection and management of natural areas. The funds received were to be split equally between the two funds. On October 7, 1993, the Board adopted Resolution 93-338 amending Resolution 90-57 to clarify that the funds deposited in the Natural Areas Acquisition Fund was to be 50% of the proceeds from the sale of undeveloped unrestricted property only. Resolution 93-338 also directed the Board to review the division of money between the funds in three years or upon the establishment of a regional funding source for natural areas. In May 1995 the voters of the Tri-County Region approved a general obligation measure authorizing Metro to issue \$135.6 million in general obligation bonds to acquire open spaces. In addition the ownership and responsibility of operating the parks in Multnomah County have been transferred over to Metro effective July 1, 1996.

This replacement resolution would recognize the change in the role of the County and Metro and end

the diversion of the property sale proceeds for the purpose of acquiring additional natural areas.

As part of its budget request, the Department of Environmental Services proposed that these resolutions be changed to both recognize that changed role and to use a portion of those proceeds to establish a fund that would be used to make loans to County departments making major capital investments. Such a loan pool would provide a financing vehicle for County operations that would offer a cost of borrowing lower than could be achieved from any other instrument.

During the last three years the County has been presented with several opportunities to improve efficiencies by acquiring equipment and/or by redirecting building rental payments to pay for the acquisition of a facility. The Capital Improvement Fund paid for these investments initially and the annual savings or the redirected expenditure was repaid as a budgeted expenditure back to the Capital Improvement Fund in the following years until the initial capital expenditure plus interest, at the County's Investment Pool rate, was recaptured by the Capital Improvement Fund.

The creation of this new fund would move that financing from the Capital Improvement Fund to the Capital Acquisition Fund. Disbursements made from the Capital Acquisition Fund will be used to enable the County to take advantage of capital acquisition opportunities that may arise. The capital asset acquisition must have a useful life of at least five years. The asset must also demonstrate that the savings generated or the redirection of current expenditures will have a pay back period of five years or less. Departments/Offices requesting funds from the Capital Acquisition Fund to take advantage of such an opportunity must present an issues and opportunities fact sheet to the Budget & Quality and Finance Division detailing the merits and financial impacts of the proposal. If approved by the Budget & Quality and Finance Divisions, the proposal will be presented to the Board for their approval. If approved, the Department/Office will include a service reimbursement in their budget in an amount sufficient to make the Capital Acquisition Fund whole within a five year period. This service reimbursement must include interest charges at the County's investment pool rate at the time of the acquisition.

Disbursements made from the Capital Improvement Fund would continue to be related to the sale or purchase of property and/or improvements included in the County's Five Year Capital Plan.

The Chair recommended this approach to the Board as part of her Proposed Budget, and the Board adopted it and established the new fund both in its budget decisions and as part of the County's Financial Policies.

This action is the final step to reflect those decisions and to make them part of the way we do our business. In that sense, this new resolution is a "housekeeping" item designed to reflect decision the Board has already made in other arenas.

III. Financial Impact:

There is no immediate financial impact. The new funds were established when you adopted the budget in June. Your final agreements with Metro limited your liability to transfer funds from the Natural Areas Acquisition and Protection Fund, this resolution provides that any monies left over after that transfer would be transferred to the Capital Acquisition Fund. Any remaining responsibilities that the County has that have used the Natural Areas Acquisition and Protection Fund as a funding source -- Rural Area Plan development and Johnson Creek watershed work -- will be funded in the future from the General Fund.

Long-range as loans are made and repaid, the County will recognize a savings in its cost of borrowing due to the fact that our internal loan rate will be the earnings rate of the County's Investment Pool at the time of the acquisition -- a lower rate than we could get from any other financing source. In addition all external financing issue costs -- bond counsel, rating agency, financial advisor -- will not be incurred by the County.

IV. Legal Issues:

None.

V. Controversial Issues:

None that we are aware of.

VI. Link to Current County Policies:

This resolution would correspond to the Financial Policy you adopted as part of your budget adoption action.

VII. Citizen Participation:

None to speak of.

VIII. Other Government Participation:

None. The agreements with Metro have already set the direction for the County in terms of parks and natural areas, and our funding commitments to Metro are considered as part of the dissolution of the Natural Areas Acquisition and Protection Fund.

SALE OF UNRESTRICTED COUNTY PROPERTY

BACKGROUND:

On April 19, 1990, the Board of County Commissioners adopted Resolution 90-57 creating the Capital Improvement Fund and Natural Areas acquisition Fund. These funds were created to restrict the use of proceeds received from the sale of unrestricted County property for future capital requirements and the acquisition, protection and management of natural areas. The funds received were to be split equally between the two funds. On October 7, 1993, the Board adopted Resolution 93-338 amending Resolution 90-57 to clarify that the funds deposited in the Natural Areas Acquisition Fund was to be 50% of the proceeds from the sale of undeveloped unrestricted property only. Resolution 93-338 also directed the Board to review the division of money between the funds in three years or upon the establishment of a regional funding source for natural areas. In May 1995 the voters of the Tri-County Region approved a general obligation measure authorizing Metro to issue \$135.6 million in general obligation bonds to acquire open spaces. In addition the ownership and responsibility of operating the parks in Multnomah County have been transferred over to Metro effective July 1, 1996.

During the last three years the County has been presented with several opportunities to improve efficiencies by acquiring equipment and/or by redirecting building rental payments to pay for the acquisition of a facility. The Capital Improvement Fund paid for these investments initially and the annual savings or the redirected expenditure was repaid as a budgeted expenditure back to the Capital Improvement Fund in the following years until the initial capital expenditure plus interest, at the County's Investment Pool rate, was recaptured by the Capital Improvement Fund.

Policy Statement:

All proceeds from the sale of unrestricted property (not including land swaps) and interest earnings on the deposited proceeds are to be credited equally to the Capital Improvement Fund and Capital Acquisition Fund.

Disbursements made from the Capital Improvement Fund are to be related to the sale or purchase of property and/or improvements included in the County's Five Year Capital Plan.

Disbursements made from the Capital Acquisition Fund will be used to enable the County to take advantage of capital acquisition opportunities that may arise. The capital asset acquisition must have a useful life of at least five years. The asset must also demonstrate that the savings generated or the redirection of current expenditures will have a pay back period of five years or less. Departments/Offices requesting funds from the Capital Acquisition Fund to take advantage of such an opportunity must present an issues and opportunities fact sheet to the Budget & Quality and Finance Division detailing the merits and financial impacts of the proposal. If approved by the Budget & Quality and Finance Divisions, the proposal will be presented to the Board for their approval. If approved, the Department/Office will include a service reimbursement in their budget in an amount sufficient to make the Capital Acquisition Fund whole within a five year period. This service reimbursement must include interest charges at the County's investment pool rate at the time of the acquisition.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF MULTNOMAH COUNTY**

In the Matter of Repealing Resolutions 90-57	)	RESOLUTION
and 93-338 and directing the proceeds from)	
the sale of unrestricted County property to)	
the Capital Improvement Fund and the)	
Capital Acquisition Fund.)	

WHEREAS, the Board of County Commissioners created a Capital Improvement Fund and a Natural Areas Protection Fund upon approval of Resolution 90-57 on April 19, 1990; and

WHEREAS, the Board of County Commissioners amended that resolution to reflect their policy intent governing the disposition of proceeds from the sale of specific properties upon approval of Resolution 93-338 on October 7, 1993; and

WHEREAS, the Board of County Commissioners may authorize the sale of unrestricted property and/or improvements owned by the County; and

WHEREAS, it is financially prudent to segregate the proceeds received from the sale of unrestricted property so that decisions about the use of those one-time only revenues may be made in an orderly manner; and

WHEREAS, it is in the County's interest to improve efficiencies by acquiring equipment and/or by redirecting building rental payments to pay for the acquisition of a facility; and

WHEREAS, the County has many unfunded needs for capital improvements and is still inadequately invested in the maintenance of our physical plant assets; and

WHEREAS, the voters of the Tri-County region authorized the issuance of \$135.6 million in general obligation debt by Metro to acquire open spaces, and the County has turned over responsibilities for the acquisition and maintenance of natural areas and parks to Metro effective July 1, 1996 thereby negating the need for the County to maintain a Natural Areas Acquisition and Protection Fund.

THEREFORE BE IT RESOLVED, the Board of County Commissioners directs the establishment of a Capital Acquisition Fund, disbursements from which are to enable the County to take advantage of capital acquisition opportunities that may arise. The

capital asset acquired from this fund must have a useful life of at least five years. The asset must also demonstrate that the savings generated or the redirection of current expenditures will have a pay back period of five years or less. The process of applying for, and Board approval of these funds will be governed by the County's Financial Policy on the Sale of Unrestricted County Property; and

THEREFORE BE IT FURTHER RESOLVED, the Board of County Commissioners directs the abolishment of the Natural Areas Acquisition and Protection Fund, with any assets remaining in the fund after the distribution is made to Metro in accordance with the agreements transferring properties and responsibilities effective July 1, 1996 is complete, to be transferred to the newly created Capital Acquisition Fund; and

THEREFORE BE IT FURTHER RESOLVED, that the Board of County Commissioners directs that any proceeds from the sale of unrestricted property (not including land swaps) and interest earnings on the deposited proceeds are to be credited equally to the Capital Improvement Fund and the Capital Acquisition Fund; and

THEREFORE BE IT FURTHER RESOLVED, that the only disbursements made from the Capital Improvement Fund are to be related to the sale or purchase of property and/or improvement included in the County's Capital Plan; and

THEREFORE BE IT FURTHER RESOLVED, that the Board of County Commissioners will review the use of the funds and the division of the money between the funds in five years.

ADOPTED this _____ day of _____, 1996.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

By _____
Beverly Stein, Chair

REVIEWED:

By: *Sandra A. Duff*
Laurence Kressel
County Counsel
for Multnomah County, Oregon



DAN SALTZMAN, Multnomah County Commissioner, District One

1120 S.W. Fifth Avenue, Suite 1500 • Portland, Oregon 97204 • (503) 248-5220 • FAX (503) 248-5440

DATE: August 7, 1996

TO: Chair Stein, Commissioners Hansen, Kelley, Collier and
Board Clerk Deb Bogstad

FROM: Cameron Vaughan-Tyler

RE: R-3 in the matter of repealing Resolutions 90-57 and 93-338 and directing the
proceeds from the sale of unrestricted County property to the Capital
Improvement Fund and the Capital Acquisition Fund.

Commissioner Saltzman would like to make the following underlined amendment on August 8, 1996 to Resolution R-3 on page 2, second paragraph stating "THEREFORE BE IT RESOLVED".

THEREFORE BE IT FURTHER RESOLVED, that the Board of County Commissioners directs that before any proceeds from the sale of unrestricted property (not including land swaps) and interest earnings on the deposited proceeds are to be credited equally to the Capital Improvement Fund and the Capital Acquisition Fund, a one-time only \$20,000 disbursement be made to join and complete the efforts made by METRO and the City of Portland Parks Department to purchase the Taylor Woods property which includes the headwaters of Ash Creek, a tributary of Fanno Creek in Portland's Crestwood neighborhood and an important parcel recognized in the Fanno Creek Greenway and Tryon Creek Linkage Refinement Plans; and

MEMORANDUM

DATE: August 15, 1996

TO: Chair Beverly Stein
Commissioner Gary Hansen
Commissioner Sharron Kelley
Commissioner Dan Saltzman

FROM: Commissioner Tanya Collier

RE: R-4 in the matter of repealing Resolutions 90-57 and 93-338 and Commissioner Saltzman's amendment for a one-time disbursement from the fund and adding an additional disbursement.

Commissioner Collier would like to make the following amendment (underlined) today, August 15, 1996, to Resolution R-4 on page 2, second paragraph, following Commissioner Saltzman's amendment "Tryon Creek Linkage Refinement Plans; and" a one-time only \$100,000 disbursement be made towards acquisition of open space properties designated by Metro as Tier 1-B, East Buttes and including Rocky, Kelly, Powell, and Mt. Scott/Clatsop Buttes in partnership with Metro and the City of Portland to preserve these important properties and enhance the livability of Multnomah County in the future.

BOARD OF
COUNTY COMMISSIONERS
96 AUG 15 AM 8:05
MULTNOMAH COUNTY
OREGON

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF MULTNOMAH COUNTY**

Repealing Resolutions 90-57 and)	
93-338 and directing the proceeds	)	RESOLUTION
from the sale of unrestricted County	)	96-138
property to the Capital Improvement)	
Fund and the Capital Acquisition Fund)	

WHEREAS, the Board of County Commissioners created a Capital Improvement Fund and a Natural Areas Protection Fund upon approval of Resolution 90-57 on April 19, 1990; and

WHEREAS, the Board of County Commissioners amended that resolution to reflect their policy intent governing the disposition of proceeds from the sale of specific properties upon approval of Resolution 93-338 on October 7, 1993; and

WHEREAS, the Board of County Commissioners may authorize the sale of unrestricted property and/or improvements owned by the County; and

WHEREAS, it is financially prudent to segregate the proceeds received from the sale of unrestricted property so that decisions about the use of those one-time only revenues may be made in an orderly manner; and

WHEREAS, it is in the County's interest to improve efficiencies by acquiring equipment and/or by redirecting building rental payments to pay for the acquisition of a facility; and

WHEREAS, the County has many unfunded needs for capital improvements and is still inadequately invested in the maintenance of our physical plant assets; and

WHEREAS, the voters of the Tri-County region authorized the issuance of \$135.6 million in general obligation debt by Metro to acquire open spaces, and the County has turned over responsibilities for the acquisition and maintenance of natural areas and parks to Metro effective July 1, 1996 thereby negating the need for the County to maintain a Natural Areas Acquisition and Protection Fund; now therefore

IT IS HEREBY RESOLVED that the Board of County Commissioners directs the establishment of a Capital Acquisition Fund, disbursements from which are to enable the County to take advantage of capital acquisition opportunities that may arise. The capital asset acquired from this fund must have a useful life of at least five years. The asset must also demonstrate that the savings generated or the redirection of current expenditures will have a pay back period of five years or less. The process of applying for, and Board approval of these funds will be governed by the County's Financial Policy on the Sale of Unrestricted County Property; and

IT IS FURTHER RESOLVED that the Board of County Commissioners directs the abolishment of the Natural Areas Acquisition and Protection Fund, with any assets remaining in the fund after the distribution is made to Metro in accordance with the agreements transferring properties and responsibilities effective July 1, 1996 is complete, to be transferred to the newly created Capital Acquisition Fund; and

IT IS FURTHER RESOLVED that the Board of County Commissioners directs that before any proceeds from the sale of unrestricted property (not including land swaps) and interest earnings on the deposited proceeds are to be credited equally to the Capital Improvement Fund and the Capital Acquisition Fund, a one-time only \$20,000 disbursement be made to join and complete the efforts made by METRO and the City of Portland Parks Department to purchase the Taylor Woods property which includes the headwaters of Ash Creek, a tributary of Fanno Creek in Portland's Crestwood neighborhood and an important parcel recognized in the Fanno Creek Greenway and Tryon Creek Linkage Refinement Plans, and a one-time only \$100,000 disbursement be made towards acquisition of open space properties designated by Metro as Tier 1-B, East Buttes and including Rocky, Kelly, Powell, and Mt. Scott/Clatsop Buttes in partnership with Metro and the City of Portland to preserve these important properties and enhance the livability of Multnomah County in the future; and

IT IS FURTHER RESOLVED that the only disbursements made from the Capital Improvement Fund are to be related to the sale or purchase of property and/or improvement included in the County's Capital Plan; and

IT IS FURTHER RESOLVED that the Board of County Commissioners will review the use of the funds and the division of the money between the funds in five years.

ADOPTED this 15th day of August, 1996.

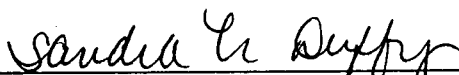


REVIEWED:

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON


Beverly Stein, Chair

LAURENCE KRESSEL, COUNTY COUNSEL
MULTNOMAH COUNTY, OREGON


Sandra N. Duffy, Chief Assistant